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THE

MANUSCRIPTS

OF THE

HOUSE OF LORDS,

1692—1693.

Presented to both Houses of Parliament by Command of Her Majesty.

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INTRODUCTION.

THIS Volume, which carries the Calendar down to the Session commencing on 7 Nov. 1693, begins with the meeting on 2 Jan. 1691–2, after the adjournment on 31 Dec. 1691, when the King, in his Speech inviting further supplies for prosecuting the War, had recommended the dispatch of business with a view to an early close of the Session. A variety of Bills were accordingly pushed forward in the Commons. Three of these—each emanating from the Whigs and laid aside by the Lords—are preserved. The two most important of them, for vesting the forfeited estates in England and Ireland in the Crown, to be applied to the use of the War, revive in part the provisions of the abortive Attainder Bill of 1690, as then amended by the Lords (Nos. **558** and **559**). The third, which Ralph suggests was intended to "straiten the Ministry in their "borrowings on the public funds," proposed to reduce to 5 per cent. the legal rate of interest, which had been already reduced from 8 to 6 per cent in 1660. It anticipates the Act of 1713, except in including bankers and in excluding loans to the Crown (No. **536**). Two other Bills, which also failed to pass, are wanting, having been dropped in the Commons in consequence of the Lords' amendments. One of these, which was brought into the Commons by Sir Christopher Musgrave, a Tory, was for reviving the Public Accounts Commission. It was lost, after a controversy between the two Houses, by the Lords adhering, by a majority of only 9, to their amendments, including the addition of four Commissioners, not members of the Commons, chosen by ballot from a list of 42, whose names are recorded (No. **539**); but the substance of the Bill was saved, as is known, by means of a Proviso irregularly tacked to the Poll Act, and acquiesced in by the Lords. With regard to the other, a Bill "to prevent

75620. Wt. 15972.

" false musters and for the better paying of quarters," which proposed to remedy an evil exposed by the Accounts Commissioners in their first Report,* by providing for the future payment of the Army according to the number of actual effectives, there is a curious proviso, which was offered but laid aside in the Lords, exempting from punishment for deserting or demanding his pay any non-commissioned officer or private who could prove that his pay was forty days in arrear (No. **553**).

On 24 Feb. 1691-2 both Houses adjourned till 12 April, after which a series of prorogations by Commission, the last of them on 26 September, deferred the commencement of the new Session till 4 November, when the King, only recently returned from the Continent, opened Parliament in person on his birthday. The Lords, after adjourning for three days, as the Commons did for six—for what reason does not appear—took up at once, to the exclusion of other business, a complaint by the Earls of Huntingdon and Marlborough, which will be noticed later on among other cases of Privilege. The sequel to their proceedings was the introduction—after learning the King's intention to discharge the Earl of Huntingdon's recognizances—of a Bill to indemnify the Ministry for these and other commitments. It passed into law as originally drafted, the Lords abandoning the Clauses added in Committee and objected to by the Commons, as tending to hamper the Executive at a time of public danger. These Clauses are among the papers, and are instructive as showing traces of the dispute which preceded and probably occasioned the Act (No. **608**). A later consequence of the fear of Jacobite designs will be found in an Abjuration Bill† brought into the Lords the next Session (17 Jan. 1692-3) by the Whig Earl of Devonshire, "to prevent dangers which " may happen from persons disaffected to their Majesties' " Government," which dropped, however, after being committed by a majority of 46 to 41. This Bill, which has passed unnoticed by historians, except Burnet,‡ who vaguely refers to it, enacted that all office-holders under the Crown,

* No. 468 in last Calendar.
† *See* also last Calendar, No. 265.
‡ Own Time, IV. 103.

as well peers as commoners, should take, on pain of forfeiting their office, an Oath of Abjuration, promising to be faithful to William and Mary, to repudiate any former oath or obligation of allegiance to James II., and not to assist or hold any correspondence with him, but to assist William and Mary against him and all their enemies (No. **664**).

On consideration, at length (28 Nov. 1692), of the Speech from the Throne, the Lords, taking advantage, like the Commons, of a conventional compliment in it to the "advice" of Parliament, went into a Grand Committee on the State of the Nation (No. **611**), with the primary purpose of criticising the conduct of the War on land and sea. The record of proceedings explains clearly the course and character of a series of animated debates, the practical result of which—after a collapse, through a difference between the two Houses, of the enquiry into the naval miscarriages of the summer—was the presentation, on 18 Feb. 1692–3, of an Address of Advice to the King. As regards this Address, in the debates on which Marlborough, smarting possibly from his dismissal by the King and his still more recent commitment, took a prominent part, the main ground of complaint by the Lords was the King's employment of foreigners, as being subversive of discipline. The Resolution, recommending in effect the dismissal of Count Solmes, passed without a division, after an amendment to postpone its operation until his command-in-chief fell vacant had been negatived on the previous question. A scrutiny of the lists of the Ordnance Office and the Flanders Train showed, as will be seen from the papers, that nearly all the chief posts were held by foreigners. Two of them, each a Dutchman, were singled out for dismissal—namely, Col. Gore, the chief officer of the Train, and Meesters, the Comptroller, who was also a member of the incriminated Board of Ordnance, and Storekeeper at the Tower. As to Meesters, there was no division; but the motion necessitating Gore's removal by restricting his post to "one of their Majesties' subjects" was agreed to in Committee only after the previous question had been carried by a majority of 3, and was negatived on report by an equality of votes, produced by proxies, after a proposal to substitute native-born subjects had been rejected by a bare

majority of 2. A Head for advising the King to ask for cautionary towns (Ostend and Nieuport were mentioned but not insisted on), "for the security of his troops,"* was rejected by 36 to 24; and the motion, ascribed to the Whig Earl of Warrington, for removing disaffected persons from the Lieutenancy of London, was reserved for a separate enquiry, which had no result beyond condemning as "insolent" a paper on that subject handed in at the door by a person who, according to Luttrell, fled to avoid arrest. The Address of Advice was finally agreed to, with the addition of a complaint concerning the impressing as seamen of men intended for land service.

The examination into the naval miscarriages of the summer began, on 29 Nov., with a motion to enquire into "the in-" tended descent on France, and the reason of our ships being " lost since the victory of La Hogue" on 19 May. It ended, after a trial of strength between the supporters of Nottingham in the Lords and the supporters of Admiral Russell in the Commons, in an indecisive Conference between the two Houses. As regards the failure of the descent on France, the statement put in by the Transport Commissioners adds little to what they delivered to the Commons. Nottingham's Case or Narrative, which was brought in by him on Dec. 6, communicated to the Commons at a Conference, and read by them in the House on the 20th,† and finally returned to the Lords, has also been printed in the Commons' Journal, but with many inaccuracies and two important omissions. One of these omissions is the absence of any reference in the narrative to Russell's remarkable letter of 29 July, which is stated to have been annexed to it, and is somewhat meagrely described there as containing "reflec-

* This note of the Clerk is ambiguous, but the object of the Head, which occasioned a "very long and fierce debate," was clearly not strategical, but financial, namely, that Spain and Holland, the assisted Powers, should give pledges for repayment of the expenses of such assistance, as they had offered to do when imploring the assistance of Queen Elizabeth. *See* Ralph, ii. 396.

† This is shown by the endorsement, which bears the initials of Paul Jodrell, the Clerk of the Commons, and disposes of Burnet's statement to the contrary. The original letters, from which the Narrative was compiled, were produced to the Lords and returned to Nottingham in the following March, but their number and dates are ascertained from a list taken down by the Clerk. There is nothing to show that they were ever communicated to the Commons.

tions upon the whole matter."* The other omission is an extract from a letter from Nottingham to Russell of 26 July, enclosing a Queen's Order of that day, urging an attempt on Brest, and, in particular, the burning of St. Malo, on the faith of some information brought by a Capt. Wilkins, which, as is now shown, turned out to be incorrect.†

The mass of Papers brought in by the Admiralty, consisting of official copies of Orders to and Letters from Russell, form a source of information hitherto untapped, except in part by Burchett, the only naval historian of the time. They cover a period extending, with breaks (two books of Russell's Letters being wanting), from 2 April to 28 August 1692, and a digest of them will be found in this volume, arranged under various heads for the purpose of facilitating research. Some points come out clearly from this correspondence which deserve more than cursory notice. One of these is the actual strength of the Fleet which fought the French at La Hogue. Russell's line-of-battle on 15 May gives a total of 64 ships of the line, but only 57 of these appear to have been then available, for he writes the same day, saying, "the Dutch that are now with me are 22 in number, which "is all we expect in any time, so that with those of our own "we make up 79 sail," instead of the 99 which has commonly been represented by historians as the combined strength of the Allied Fleet.‡ Speaking of the battle, Russell afterwards (23 May) writes: "The enemy's ships did not exceed 50 ships "of war, of which number 18 of them had three decks, and "but two so small as 56 guns. Though their number was "inferior to ours, yet I can positively affirm that the ships "of their Majesties which beat them did not exceed 40, for

* This letter, which is a powerful summing up of Russell's case against Nottingham, has been printed in the Commons' Journal, but among some other letters and papers brought in on 28 Nov. by the Admiralty (C. J., X. 717, 721–22), and not as part of Nottingham's Narrative.

† See Russell's Letters to the Admiralty of 24 July and 2 August. As to the state of things at St. Malo early in August, there is an interesting account, furnished by some prisoners retaken from the French.

‡ Ralph, like the List in Somers' Tracts, makes the English total 63, by omitting the *Tiger Prize*, a fourth rate of the Blue Squadron, and credits the Dutch with 36 more. The Dutch line-of-battle, as given by Russell in a letter of 9 May, consisted nominally, it is true, of 36 ships (besides fireships), but only 16 of them are marked in Russell's List as being then with the Fleet, and 4 more of the 36 are marked as not being expected by Admiral Allemonde for at least three weeks.

" the weather being so thick and quite calm, the Dutch, who " led the van, could not come in to fight, and the Blue, who " were in the rear, could not come up, except in the night, " about 8 o'clock."

The want of seamen, notwithstanding the severity of the press-gangs, is repeatedly complained of. Four days before the battle, Russell writes: "Either a battle, sickness, or death, " some or all of which must be expected this summer, will " cause a great want of men, which I shall not be able to " supply." Out of the 64 ships of the line in the List of 15 May, which is dated from St. Helens, 55* show a net deficiency of 1,900 men then "actually on board," as compared with their aggregate complements of 25,590. The first-rates were the best off, some of them being overmanned, a proof of the popularity of the larger ships; and the third-rates were in the worst plight. As for the 24 fireships, Russell writes on 15 May, "there is hardly one that has three seamen,† and " whenever I chide an officer for not getting men, his answer " is, 'All the men I met with were protected.'" The only remedy the Admiralty could find for this want of seamen was to order Russell to equalize the crews; but, considering that the 10 ships with more men than their complements on board had only a superfluity of 513 between them for disposal, the remedy was a very partial one; while, as only 2 ships—the *St. Andrew* and *Ruby*—had their exact complements on board, what men beyond the 513 were wanted for "turning over" to other ships could only have been obtained by still further denuding ships already undermanned.

This "turning over" system was, moreover, intensely unpopular. "It will be very hard," Russell writes (15 May), "on " the officers who, either out of diligence or being well-esteemed " among the sea-faring men, have got their ships well manned, " to spare them to the negligent. . . It is not to be expressed, " the trouble I have about the men turned over at the " Nore. . . These are complaints that require more patience

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* With regard to the remaining 9, the column of "men on board" leaves blanks. If these blanks mean that the ships were unmanned, the deficiency, compared with complements, would be increased by 3,330.

† This probably refers to the quality, not to the quantity of the seamen, for the 24 fireships were short of their complements by only 92 men in all.

" than I am blest with, not having one minute free from them. " . . . The fighting part is by much the least trouble that an " Admiral of the English Fleet meets with." In a later letter (9 June) he adds that there was a general complaint among the commanders that the Vice-Admirals, Justices of the Peace, and other civil officers, so far from assisting, rather hindered, the officers employed in procuring men for their ships; and this, in his opinion, had been the chief cause that several ships, whose commanders had least interest among the seamen, were not so well manned as others. Of the quality of many of the men impressed he speaks in terms of contempt. Several of the ships have "numbers, but not the tenth man a seaman," and again, "unless the civil officers send in better men than those " I have seen on board the *Cornwall*, 'twere better they did " not put the King to the charge of procuring them, for they " are fitter to breed distempers on board the ships than to do " anything that may be serviceable."

The provision for the sick and wounded was miserably deficient. Only four days before the Battle, Russell had but one hospital-ship out of the four assigned to the Fleet, "and that " one useless, having neither beds nor surgeon's chests." The townspeople of Portsmouth and Gosport who supplied with necessaries the sick sent ashore, complained, through a deputation headed by the Mayor, that they had to do so on credit, no money having been sent down to pay them. The Fleet was victualled nominally from 8 May to 27 August; but an Account, dated St. Helen's, 15 May, shows "great quantities to be wanting of each species," and on 9 May most of the pursers of the Fleet are missing. The deficiency of provisions was tardily supplied by the arrival of the victualling ships at Torbay (24 July); but, nothwithstanding this, the Fleet had to be put on short allowance on 9 August "to lengthen out the victuals" beyond the 27th, and it was only the arrival of more provisions at St. Helens on 17 Aug. that enabled whole allowance to be resumed on the 26th. The want of ready money, besides crippling the departments, was a matter which caused "grievous complaints" among the seamen, as regards the non-payment not only of bounty money, but also of ordinary wages. "If money," Russell writes (17 May), almost on the eve of the battle, "may be sent down to pay the

" ships which want it, as the rest have been, it will be a very " great quiet to the minds of the men. The hopes of it " brought many of their wives hither [to St. Helens], who are " all gone railing to London, without money to support their " families."

This general discontent produced its natural result, and Russell, on 23 Aug., describes the deserting as "infamous." The rumours of Jacobitism in the Fleet were, as is known, unfounded, and evoked an Address of Loyalty, signed by 64 commanders, whose names, strangely enough not printed in the Gazette, are now published for the first time and supply an acknowledged want. Carter's name appears among them—an additional proof of his loyalty, which he afterwards sealed with his death. From an interesting letter of Russell's, dated La Hogue, 23 May, and continuing the account of the battle given in his letter of the 20th to the Admiralty, a duplicate of which was sent to Nottingham and published in the Gazette, it appears, among other things, that Carter was killed "in a scuffle" during the pursuit of the French, and not, as stated by Macaulay,* at the beginning of the action. There is an interesting examination of Sir John Ashby with regard especially to his not pursuing the French through the Race of Alderney, the pilots refusing to take any first or second-rates that way in the fog. "The French," he says, "ventured to do that in the night which we did not " dare in the day."

The English losses in the battle, as regards officers, were few in number; but, besides Carter, they included Capt. Hastings of the *Sandwich*, who received a public funeral. "The King," Russell writes of him, "might better have spared a fourth-rate frigate, so much value I set upon him." † Among others whom the Admiral recommended specially for promotion, were the captains of the fireships which did such brilliant service in La Hogue Bay. But he owns a difficulty in making a selection, "for those who had an opportunity of

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* On the authority, apparently, of Clarke's Life of James II. (ii. 493) or Luttrell, 26 May 1692. Russell's statement confirms that in the London Gazette, No. 2768.

† His widow, Caroletta, daughter of Sir John Churchill, "a man very eminent and a great gainer in his profession," figures as appellant in an appeal as to the jointure of her father's widow, Dame Susannah Churchill (No. 637).

" doing their duty during the fight did do it, but without its " being attended with anything remarkable or extraordinary; " nor can I accuse those who could not come in to take their " share, because I am of opinion they did their utmost." The record is marred by only two cases of misconduct, one of these being on the part of a lieutenant, who was tried for running into the hold during the battle, and dismissed the service, after being carried round in a boat, with a halter round his neck, to each ship in the Fleet, where his crime was read.

With reference to the famous Land Tax Act of 1693, which marked an epoch in the history of taxation, the two provisos of the Lords, wrongly described by Burnet, and others after him, as an attempt of the Peers to "tax themselves," have long been familiar from the Commons' Journal, and show plainly, as first pointed out by Macaulay, that what the Lords proposed was, not to alter the amount of the taxation, which was fixed by the Bill at 4*s.* in the pound, but simply to appoint Commissioners of their own House to value their estates, and a Collector of their own choosing to receive the money. Strange to say, however, no historian has noticed * that these very provisos were taken by Godolphin *verbatim*, except as regards the names of some of the Commissioners,† from the Poll Act of 1689, when the Commons, who now resented them with such heat, had accepted them without a scruple, Bishop Burnet himself, who denounces them now as not to be defended, having then been one of the Commissioners appointed to execute them. The Lords, after negativing by 50 votes to 36 a motion, supported by Mulgrave, to refer the matter to the Committee for Privileges for the examination of precedents, waived their amendments on the ground that affairs were urgent, and that there was more in them than was intended (a somewhat singular admission, considering their past history), but insisted on their right to make them, for reasons given to the Commons at a second Conference, but not entered by the latter on their Journals. As to the first Conference, the story, gravely told by Ralph, of the

* Dalrymple, indeed (Memoirs, iii. 20), speaks of these provisos as an "innovation."

† The former Act named 36 Commissioners, of whom 12 reappear among the 26 named in these provisos.

Lords attempting to evade it by taking up the hearing of the Banbury Claim of Peerage, fades into a myth in the light of facts (No. **665**).

The necessities of Supply, which had occasioned the Land Tax Act, will be found to be largely explained by the Report of the Accounts Commissioners (No. **610**), whose duties, as already mentioned, had been revived by the Poll Act of the previous Session. This Report, which was laid on the table of both Houses on 28 Nov. 1692, forms the second of a series hitherto unpublished, the importance of which has been noticed in the last Calendar. Its contents * supply a significant comment on the public outcry against the squandering of the revenue and the inordinate gains of office-holders, which had filled the House of Commons with placemen, and given rise to the nickname of the "Officers' Parliament." Of the two abortive schemes of Parliamentary reform designed to remedy these distempers—namely, the Place Bill of the Tories and the Triennial Bill of the Whigs—the text of the former is preserved in the engrossment, as it came from the Commons, who passed it without a dissentient voice (No. **643**). After a preamble reciting the corruption of members in "former" Parliaments, the Bill simply enacted that no member (except the Speaker) chosen after 1 February 1692–3 should accept any office under the Crown, on pain of forfeiting his seat; thus leaving all existing placemen in possession, and making no attempt to distinguish, as regards the future, between the heads of departments, whom it was absurd to exclude, and their subordinates, whose presence was the real abuse.† In the Lords, where the Bill was closely contested, it was proposed in Committee to include pensioners, as was done afterwards in the Act of Settlement, and to allow the member incapacitated by the Bill to be re-elected —an expedient which had formed part of a Bill rejected in the Commons on 29 April 1675,‡ was revived in the

* Luttrell (1 Nov. 1692) speaks, apparently with satisfaction, of these Accounts bringing out a debt of only 2,000,000*l.* from the King to the Army, Navy and Transport services. No such debt is expressly disclosed in this Report.

† And yet, as Hatsell points out (ii. 61), this sweeping disqualification, to commence after the death of King William and Queen Anne, was inserted soon afterwards in the Act of Settlement (12–13 Will. III. c. 2. sect. 3), but was repealed, before it took effect, by 4 & 5 Anne c. 20. sect. 28.

‡ 2 Hatsell 66, *note*, and Grey's Debates, iii. 53.

Act of 4–5 Anne c. 20. sect. 30, and is now in force by sect. 25 of 6 Anne c. 41. These two amendments were negatived by majorities of only 9 and 4, and the three clauses of the Bill were then carried by majorities of 7, 1 and 3. The question whether the Bill should pass gave rise to a novel incident. It was at first carried by a majority of 2; but the House having afterwards allowed—though not without debate and the challenge of a division—the addition of the proxies entered that day, these, on the proxies being reported by the Speaker, reversed the previous vote, and caused the Bill to be rejected by a majority of the same number.*

With regard to the "Triennial" Bill introduced by E. Shewsbury on 12 Jan. 1692–3, under the vague title of An Act for the frequent meeting of Parliaments (No. **660**), its true history is now made known by the discovery, in particular, of the original draft. As introduced, it was not a Triennial Bill at all, but one, as described by Luttrell,† "for an annual Parliament," summoned by writs issued annually. Briefly stated, it provided (1) for the due observance of divers laws and statutes, for holding Parliament "at least once in every year,"‡ as enacted by the Triennial Act of 1640;§ (2) for the summoning every year of a *new* Parliament for a particular day, left blank; with a compulsory clause—suggested also (excepting the triennial period) by the Act of 1640—requiring the Lord Chancellor to issue the writs for that purpose, in default of direction from the Crown; and (3) for the dissolution, from and after that particular day,‖ of any Parliament then in being.

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* Macaulay, by misstating the proxies for the Bill 2 instead of 3, misstates also the ultimate result. As for the 7 proxies against it, "three," he adds, "were questioned, and were with difficulty admitted." He gives no authority, but his statement, as will be shown further on, is probably correct.

† Diary, 12 Jan. 1692–3.

‡ In Committee of the Whole House these statutes were specified as those of Edward III., but the words quoted above were left out.

§ The title of that Act, as brought into the Commons, was An Act for yearly holding of Parliaments (C. J., 24 Dec. 1640). It was reported from Committee and passed as An Act for the preventing of inconveniences happening by the long intermission of Parliaments.

‖ The word ("in,") occurring, as may be seen, three times in the middle of a blank in Clauses ii. and iii. of the original draft, makes nonsense in connection with the words ("from henceforth.") But on a close inspection of the draft, the word in question is found to be in a different hand, and was no doubt inserted on the wrong assumption that the blank, thus divided, was meant to be filled up, as is commonly the case, with a particular year as well as month.

The Committee of the Whole House, on coming, after making some amendments, to consider the day for the annual meeting of Parliament, agreed to report in favour of provisions enacting that Parliaments should sit every year, and a new Parliament every three years,* that there should be no compulsory clause, and that a time should be fixed for the determination of the present Parliament. The House being then resumed, after a division, by 32 votes to 26, these Heads were reported, and were afterwards embodied in a new draft of four clauses by Justice Rokeby. This draft was adopted by the House in Committee, with Bishop Burnet in the Chair,† after fixing 1 January 1693–4 as the date of the next dissolution; and nothing was left of the old Bill except the title, which was amended.‡

The Commons returned the Bill, thus recast, with two amendments, the first of which has passed unnoticed. As Section i. required a Parliament to be holden every year, it was an absurdity on Rokeby's part to give three years after dissolving one Parliament for summoning the next one. This absurdity was removed by changing the three years in Section ii. to one year. The second amendment was to postpone the date of the next dissolution till 25 March 1694, thus giving time to complete a new Session.§ The Lords accepted these amendments, and the Bill in this shape was tendered to the King, who refused his Assent to it on the last day of the Session. It was revived *totidem verbis*

* This is the first appearance of the Triennial period in this Bill. Rokeby had no specific instruction to prevent the intermission of Parliament for more than three years, this being sufficiently provided against by Sect. i. But, inasmuch as his second instruction involved the question of intermission as well as of continuance, and the machinery had to be provided for summoning a new Parliament after discontinuing the old one, he gave effect to it by means of two Clauses, the first of which (Sect. ii), dealing with intermission, was taken almost *verbatim* from the Triennial Act of 1664.

† It is strange that Burnet, in his account of the Bill (iv. 106), makes no reference to the original draft, which must have been before him as Chairman. His description, like those of Ralph and Macaulay, applies entirely to Rokeby's new draft, which is wrongly attributed to E. Shrewsbury, the author, as Luttrell states, of the original draft (12 Jan. 1692–3).

‡ The first amendment, relating to the frequent "calling" (as well as "meeting") of Parliaments, marks the real object of the Bill. The second, which was struck out on report, expresses the same idea in other words.

§ Burnet (iv. 107), whom Macaulay follows, is not strictly accurate, for a new Session might have been held, though probably not completed, if the Lords' date of 1 Jan. 1693-4 had stood.

in December 1693, when, after being amended in Committee of the Lords, it was rejected by the Commons. In the Act of 1694, which remained law until repealed by the Septennial Act of 1716, its text reappears with two important variations, namely, the omission of all reference to the statutes of Edward III., and the substitution of triennial for annual periods in Sections i. and ii., thus making no provision for annual Sessions,* and leaving the country possibly without a Parliament for nearly three years.

Comparing this Bill with the Acts of 1640 and 1664, it is interesting to note how the different sense in which each of them was "Triennial" reflects the prevailing political feeling of the times. The Act of Charles I. provided for the yearly holding of Parliament, and was triennial in so far as it compelled the assembling of Parliament, if not summoned for three years. That of the Restoration left the King's hands free as to annual Sessions, and was triennial in "beseeching" him to summon Parliament at least once in three years. The present Bill, while reverting to annual Sessions, is triennial only in limiting the duration of Parliament to three years, thus being directed against an abuse of power, not by the Crown, but by Parliament itself.

A clause in an Expiring Laws Continuance Act (No. **724**), which received the Royal Assent on the last day of the Session, gave a further lease of life to the famous Licensing Act, establishing the censorship of the Press, which dated back, with interruptions, to 1662, and was finally abolished in 1695. This Clause was opposed by the Booksellers, whose chief complaints were against the abuses of the Stationers' Company, as patentees and monopolists, but was carried in Committee with only one dissentient voice. The two provisos offered on third reading, the one forbidding peers' houses to be searched, without oath being first made—a proposal which the Commons had resisted in the Licensing Bill of 1661 †—and the other dispensing with a license, if the name of the author or printer were given—a suggestion due originally to Milton ‡—

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* These being probably thought, as Hallam suggests (ii. 202), to be sufficiently secured by the Mutiny Act and the Appropriation Clause in Bills of Supply.

† Commons' Journal, 29 July 1661; Hallam, Const. Hist. iii. 5.

‡ Macaulay, vi. 373, ed. 1864.

were rejected by majorities of 4 and 8. With reference to the anonymous pamphlet *King William and Queen Mary Conquerors*, which was burnt, like Burnet's *Pastoral Letter*, by the common hangman in Palace Yard, the Minute Book adds some further details to a literary episode first unveiled by Macaulay.* The papers relating to the enquiry into the alleged maladministration of Ireland by Lord Sydney, in the course of which enquiry a Clerk of the House was committed to prison for rudeness to an Irish witness, add nothing of importance to what is printed in the Journal (No. **718**). It ended, as is known, in an Address of Remonstrance to the King on 9 March 1692–3. Five days later Parliament was prorogued, William declaring that the state of affairs on the Continent required his presence abroad.

The papers dealing with subjects of special rather than of general interest range themselves conveniently into separate groups. With regard to ecclesiastical and religious matters, a Commons' Bill of 2 Jan. 1691–2, for the recovery of small tithes (No. **511**), supplies a further chapter in the history of a long standing subject of litigation and discontent, which, after a series of fruitless attempts to legislate, dating back to 1675, found a settlement by law in the Act of 1696. There are two proposals to relieve the Quakers, in respect of their scruples to take an oath. One of these is a Lords' Bill (No. **542**), grounded evidently on a previous one of 1690,† and rejected by the Commons, which enabled them, on certain conditions, to make affirmation, as witnesses, in the Courts of Chancery and Exchequer, but only in causes "other than criminal." This obnoxious exception originated as an amendment to this Bill, and was retained in the Act of 1696, where it was stigmatised in later days by Lord Mansfield as a "strong prejudice in the minds of the great men "who introduced that statute."‡ The other, allowing a "solemn promise" before administering a will, was offered, but not accepted, as an addition to the Act of 30 Car. II. c. 7.

* vi. 367. The pamphlet had been written by Blount, with the view of ruining Bohun and supplanting him as Licenser. Bohun, who licensed it, was brought before the Commons, and afterwards imprisoned. Com. Journ., 20 & 21 Jan. 1692–3.

† No. 328 in last Calendar.

‡ Cowp. 390.

for the Administration of Estates, on its renewal, together with other statutes then expiring, by a Continuance Act already mentioned. A Bill making parishioners of a church united to another contributors to the repair and ornaments of the latter (No. **713**), and one dividing the chapelries of North Chapell and Dungton from the Parish of Petworth, and erecting them into new parishes (No. **676**), both of which received the Royal Assent, complete the list of measures in this group.

Among other papers relating to trade and industry, a Commons' Bill of 16 Feb. 1691–2, for permitting English ships to be navigated with foreign seamen to and from the West Indies during the war, recites the crippling effects of the Navigation Act, in conjunction with the drain on English seamen for manning the Navy, on the trade with the English plantations in America* (No. **560**); and in this connection may be mentioned a Bill to encourage the building of good ships by granting a rebate of Customs dues in respect of 600 ton ships carrying 30 guns, and with three decks (No. **555**). Both these Bills dropped with the prorogation. Two further unsuccessful attempts to relieve the wool trade by transferring the collection of the alnage duties from the Farmers under the Duchess of Richmond to the Custom House,† in regard to which some instructive particulars will be found, appear in a Bill of January 1691–2 (Nos. **532** and **533**), and another of February 1692–3 (Nos. **686** and **692**), which differs mainly from the previous one in prescribing a higher scale of duties. With regard to the butter and cheese trade, particularly with Norfolk and Suffolk, the chief centres of dairy-farming, some interesting evidence is disclosed. The London trade, it appears, was engrossed by a "ring" of Thames Street cheesemongers, or "wholesalers"—some 22 in number out of 250 in the whole of London—who bought, through their local factors or agents, from the farmer in the country at his house, where the butter was weighed, often with very primitive appliances; and it was then shipped, after packing, from Woodbridge, or other places, by hoys to the Thames side.

* A similar, but general, Bill had passed the Lords in January 1690–1, but was lost in the Commons. *See* No. 376 in last Calendar.

† *See* also No. 369 in last Calendar.

The use of fraudulent weights, and the mixing of old butter with new, had been provided against by the Act of 1662, at the instance of the London traders, who since then, however, under colour, and, as was now alleged, in contravention, of that Act, had appointed "searchers" of their own, and practically monopolised the market by the threat of boycotting the local warehouse-keepers and hoy-men, if they shipped and carried any farmers' produce for other traders. A Lords' Bill of 17 Nov. 1692, which dealt only with the farmer's grievance as to searches, applied the doctrine of *caveat emptor* by discharging him from all penalties for wrong weight and bad packing, after actual sale, but imposed a fine, if he changed the commodity between sale and delivery at the water-side (Nos. **563** and **564**). This Bill, which the traders opposed, was laid aside in the Commons after a first reading; but a new and fuller one, retaining its provisions and supplementing them with others for securing free shipment and an open market, was brought in by Sir Samuel Barnardiston, and eventually became the Act of 1692 (Nos. **594** and **703**). A Commons' measure of protection for a minor branch of industry appears in the Act for prohibiting the importation of foreign hair-buttons (No. **717**), for which horse-hair was exported in large quantities to Holland, with the result of underselling the English maker, and which, being a recent invention, were not included in the Act of 1662. A Lords' Bill of 4 Feb. 1691–2, intended to facilitate the recovery of penalties imposed on butchers for selling live cattle, in contravention of an Act of Charles II., was rejected by the Commons without even a first reading (No. **545**). Another and a more important Bill, which originated in the Commons, conceals under the title of "An Act to "prevent the decay of trade in cities, corporations and market-towns" a measure against hawkers and pedlars, as interfering with "settled traders and shopkeepers," particularly the drapers, mercers, haberdashers, grocers, stationers and glass-sellers. They are forbidden, under heavy penalties, to carry about or sell the wares of those traders, except in open fair or market, or in a shop or warehouse; but provisos are inserted in favour of "real workers and makers," as well as tinkers, who carry about the materials for

their trade, and packers or traders retailing manufactures for sale to shopkeepers only, or at fairs. This Bill (No. **708**) was rejected by the Lords after a first reading, but several of its provisions will be found in the Act of 1696–7 (8–9 Will. III. c. 25.), which, with a view to making further provision for paying the interest of the Transport debt for the reducing of Ireland, gave a legal sanction to hawkers and pedlars, on condition of their paying for a license. In connection with the Act continuing the prohibition of trade with France (No. **730**), the evidence in Committee and the Lords' amendments throw some light on the clauses for encouraging privateering, which formed the staple of its contents. Some Bills for the development of local industries may also be referred to here. One (No. **646**) was to improve the navigation of the River Nene, for the benefit of the farmers, and another (Nos. **732** and **733**) that of the River Salwerpe and its affluents, for the advantage of the Droitwich salt works, the improvement, in each case, being entrusted to private undertakers. A third (No. **613**) was to repeal the Act of 30 Car. II., which restricted the size of nets in the Severn, below Gloucester Bridge. All these Bills were dropped after commitment. A Bill which restricted the quantity of gunpowder kept in private stores near the Tower and the Victualling Office, to allay the panic of tenants, who were leaving the neighbourhood for fear of explosions, did not get beyond a first reading (No. **547**).

The text of the important Bill for ascertaining the commissions and salaries of the Judges is now published in full, and explains why the King put his veto, on this occasion, to a reform to which he assented, a few years later, in the Act of Settlement. It was not, as assumed, that he desired to keep the judges in a state of dependence (his commissions to them were *quamdiu se bene gesserint*), but that their salaries, as first detected by Macaulay,* were charged on the hereditary revenue without the previous constitutional sanction of the Crown. A clause, proposed in the

* Hist. vi. 186, edit. 1864. The assumption was that of Burnet in the first instance (iv. 86), and was adopted by Hallam (Const. Hist. iii. 262, edit. 1832), who, unlike Macaulay, had not inspected the original parchment. As regards salaries, it appears from No. 610 that the 12 Judges got 8,641*l.* 17*s.* 10*d.* between them.

Lords, for enabling a party grieved by a corrupt judgment to bring an action against the Judge, without the interposition of a *Noli prosequi*, was lost by only a single vote (No. **565**). A significant, but hitherto unnoticed, attempt to prohibit the sale of judicial offices, under colour of the patronage vested in the judges by the Act of Edward VI., appears in a Lords' Bill of 18 Feb. 1692–3, for explaining the previous statutes on that subject. The Bill, which dropped with the Session, after commitment, and was not afterwards revived, is of a drastic nature, and contains a strange provision granting the forfeited judicial office to the successful prosecutor, if he desired it and was qualified, and, if not, three years' value of the office paid to him in money for his reward (No. **710**).

Of the two measures relating to the Court of Chancery, which had passed the Lords in 1691 but were lost in the Commons, namely, one relating to a general reform, and the other to rehearings and Bills of Review,* the latter reappears, with some variations as to procedure, in a Bill of 29 Nov. 1692, which was laid aside in the Lords after a first reading, leaving the jurisdiction of Chancery still untouched (No. **601**). Two abortive attempts to prevent frauds by clandestine mortgages —the first originating in the Commons (No. **557**), and the second in the Lords (No. **578**)—anticipate the provisions of the Act of 1692. A Lords' Bill of 22 Dec. 1692, which possibly had reference to a case of some importance decided earlier in the year,† proposed to forfeit to the Crown all superstitious trusts and uses, the same "being much continued and kept up "by secret gifts, grants and provisions." It dropped, however, after partial amendment, the Committee reporting in favour of referring it to the Judges, on account of the many difficulties, and the question was not afterwards revived (No. **641**). With regard to the Court of King's Bench, the substance of the Act of 1694 (5–6 W. & M. c. 11.), imposing conditions

* *See* last Calendar, Nos. 304 and 438. Parke, in his *History of the Court of Chancery*, pp. 255–6, has confused these two Bills, not knowing the contents of either, a common mistake with historians, who take their descriptions from the title alone. It may be noted that the abolition of the Chancery jurisdiction in Bills of Review was strongly urged by Chief Baron Atkyns (who sat Speaker both in 1691 and now) in his *Inquiry into the Jurisdiction of the Court of Chancery* (p. 48), which was published in 1695.

† *The King* v. *Lady Portington*, a case decided by Chief Justice Holt. 1 Salkeld 162.

on the grant of Writs of *Certiorari* to defendants at Quarter Sessions, with a view to prevent evasion of justice and delay, will be found contained in a Bill of 1692–3 (No. **695**), which dropped after an order for hearing Counsel on a Petition of the Clerks of the Crown Office (No. **706**). Of the two Acts of this period dealing, among other things, with the abuses of procedure on outlawries, the first (No. **701**) was aimed, also, primarily against the filing of malicious informations by the Master of the Court, in the exercise of powers which had been grossly abused before the Revolution, but which the Court of King's Bench had recently refused to declare illegal.* It passed into law unaltered (4 W. & M. c. 18.), the Commons rejecting a Clause, described by the Judges as a good one, which the Lords had transferred to it from another Bill of their own, then abandoned, but retained among the archives, for mitigating the vexatious process on writs of *Quo Minus* out of the Exchequer (No. **693**). The second, which purported to rectify the proceedings of the Crown Office in relation to Charters of Pardon as well as Outlawries (4 W. & M. c. 22.), contained, as first introduced, some Clauses which were struck out by the Lords, but which, with one exception, are decipherable on the excised portion of the Commons' engrossment of the Bill (No. **731**). In the case of persons pardoned for felony, the Act of 1694 (5–6 W. & M. c. 13.), dispensing with the six sureties required by a statute of Edward III.,† gave effect to a Lords' Bill of the previous year, which was rejected by the Commons after a first reading (No. **712**). A minor measure of reform, known to lawyers as the Docket Act, was opposed by Chief Justice Holt, for reasons which are recorded (No. **702**). Full particulars of a case of some legal importance as regards the amendment of judicial records,‡ and involving a charge of corruption against Jeffreys, as Lord Chancellor, will be found

* 5 Mod. 459; Comb. 141; 1 Shower 106, quoted in Blackstone iv. 311.

† *See* the case of *The King* v. *Parsons*, heard before C. Justice Holt in Hilary Term, 1691. The defendant, Major Parsons, had been convicted and sentenced, after a trial in King's Bench, for the murder of one Capt. Wade, in Essex, about 14 years before, for which his confederate was hanged at the time. Parsons was remanded, however, on producing a reprieve from the Queen, and was bailed out in July 1691, his pardon having passed the Seals. Luttrell, 12 May, 17 & 23 June and 17 July 1691.

‡ *See* 1 Salkeld 52.

in No. **667**. It was a Bill brought by Thomas, Earl of Pembroke, the Lord Privy Seal, to have the benefit of his Writs of Error in King's Bench for the reversal of a fine and two recoveries, in respect of his brother's, the late Earl's, estates in Glamorganshire, which he claimed under a remainder in tail male. The preamble recites that Jeffreys, who had married his son John to the late Earl's daughter, took advantage of his "exorbitant power" to overawe a Judge of the Grand Sessions in Wales into amending the writs in question, and thus altering the returns, so that no error might appear on the record. The Bill was rejected by the Commons, though approved by Holt and Treby and all the other Judges, except one, who were consulted by the Lords before giving it a second reading. A Commons' Bill (No. **516**), constituting Commissioners of a Court of Requests in Westminster, for the recovery of debts under 40*s*., forms another in a series of measures establishing Courts of Conscience for that purpose, which have been noticed in previous Reports. It was opposed by Viscount Villiers and ultimately dropped.

The jurisdiction of the House of Commons in regard to controverted elections, a long-standing subject of dispute with the Crown, was confirmed, as is well known, by the Act of 1695–6 (7–8 Will. III. c. 7.), which declared that any return of a member "contrary to the last determination in the "House of Commons" should be adjudged a false return. The text of this Act will be found almost *verbatim* in a Commons' Bill of 1692–3 (No. **722**), which contains, however, a Clause (not retained in the Act) providing that no such determination should be drawn into question in a Court of law.* The Bill was negatived by the Lords, without a division, on third reading, but not until they had affirmed the claim of the Commons; for, on report after recommitment, they rejected, by 25 votes to 17, the amendments to the contrary, and thereby restored the Bill to its original shape.

* The question, whether such determination must have actually been made by the Commons before an action for a false return could be brought against the Sheriff, was decided by the King's Bench *per* Holt in 1703 (*Prideaux* v. *Morris*, 2 Salkeld 503) in the affirmative, and by the Exchequer Chamber, *per* Willes, in 1745 in the negative (*Wynne* v. *Middleton*, 1 Wilson 125). The former was an action on the case and the latter on the Statute. The great case of *Ashby* v. *White* had reference to the question of jurisdiction in regard to the qualification of electors.

Three Bills, all sent up from the Commons, affect in various ways the revenues of the Crown. One of these reduced the fees payable on the grant of small leases in the Duchy of Cornwall, and only reached a first reading in the Lords (No. **562**). On its being sent up again the following Session (No. **700**), a Lords' amendment, though only restoring in part the existing scale of fees, was resisted by the Commons as laying a tax on the subject, and the Bill was lost. No. **690** gives the text of a Bill for removing "doubts and difficulties touching Royal Mines," which appear to have dated back to a leading case decided in the time of Elizabeth. The Bill confirmed against the Crown the rights of owners of mines of copper, tin, iron, or lead from which gold or silver may be extracted, but gave the Sovereign a right of pre-emption. The King refused his assent to this Bill, but granted it to a similar one passed in 1694 (5 & 6 W. & M. c. 6.). The third (No. **726**) was for the prohibition of all Lotteries, which had led to many quarrels, riots and murders, and was directed especially against the Royal Oak Lottery, "more grievous and mischievous than any of the rest." It was opposed by grantees of lotteries, who had paid large sums into the Exchequer in advance for them, and by indigent officers, widows and others, who had been granted annuities upon them by the Crown (No. **727**), and the third reading was negatived;* but its provisions were embodied in the Act of 1698 (10 Will. III. c. 23.), which, however, contained a saving for the Royal Oak Lottery for the remainder of its term.

A Bill restricting to the University of Oxford the provisions of an earlier measure affecting both Universities,† did not get beyond a first reading (No. **523**), and, when re-introduced in the following Session, was dropped in Committee, though the town and University were stated to have come to an agreement in favour of its passing (No. **616**). The alleged mismanagement of Birmingham Grammar School by the Governing Body was referred to in a debate on a Bill enlarging the area of selection for that Body and adding

* Tindal (Rapin, XIV. 78) uses the expression, "The patentees of the Royal Oak Lottery are said to have found means to have this Bill stopped in the House of Lords."

† No. 321 of last Calendar.

to the staff of masters (No. **540**); and a dispute among the Governors touching the election of a schoolmaster culminated in a petition of some of them to the House for an order to replace them in possession of the school, which was refused, as being without precedent (No. **625**).

With regard to four important cases of privilege, the Calendar contains some new matter of interest. One of these (No. **581**) was that of the Earls of Huntingdon, Marlborough and Scarsdale, who had been accused of complicity in the alleged Jacobite plot. On the 6th of May 1692 Huntingdon and Marlborough were committed to the Tower, on warrants identical in terms though differently signed, as being "charged "with High Treason in abetting and adhering to their Majesties' "enemies."* Scarsdale, for whose arrest a warrant was out on the 5th of May, escaped. A Proclamation was issued on the 9th for his discovery and apprehension with a number of others, but he surrendered himself to the Secretary of State on 1st June, and on the 7th was bailed by the Duke of Somerset and Lord Macclesfield.† As regards the other two lords, the usual application to be released on bail, under the 6th section of the Habeas Corpus Act, was made on the 15th of June, and Marlborough's was allowed.‡ In the case of Huntingdon and several others, however, their release was successfully opposed by an affidavit of Aaron Smith, the Treasury Solicitor, stating that there was "evidence" against them severally, "but that the witnesses against them or any of them could "not be produced this term." Huntingdon was accordingly remanded, but on 17th August following he and the Earl of Middleton, Lord Dunmore and Sir Andrew Forester, who had also been included in Smith's affidavit, were brought from the Tower and bailed before Holt, at Serjeants' Inn.§ On

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* Luttrell is wrong in his statement (7 May) that "the warrant for Lord Marlborough's commitment is for conspiring the death of the Queen, and endeavouring to seduce the officers and soldiers of their Majesties' guards." He was accused by Young of having signed the "Association" to assist King James with men and money on his landing, and to seize the Princess of Orange. (Ralph, II. 388–9.)

† Luttrell, May 5, 10, June 2, 7. Luttrell also states (2 June) that "8 or 9 of those in the late proclamation have signified by letter they will surrender themselves in case they shall have their liberty on bail, and not be confined to prison."

‡ Lord Wolseley's *Life of Marlborough*, II. 284, on the authority of the Carte MSS.

§ Luttrell, 18 Aug.

7th November, the first available day after the meeting of the House, the three earls informed the House that they had been committed and were then under bail within the time of privilege of Parliament.* The consequent proceedings on this and following days, the entries of which in the Journals are extremely meagre, seem to have been conducted, as stated also by contemporary writers, with much heat.† A motion to appoint a day for the consideration of the matter, in the presence of the Judges, was met by one that the three Lords be discharged from their bail. The Judges were, however, sent for at once, and declared they could not, in justice, discharge the recognisances until the last day of the term. It was then proposed to order them to do so now. They were questioned as to whether the prisoners could have been bailed to appear in the House of Lords. They had already expressed the opinion that the recognisances could only be removed to the House by a Writ of Error, an opinion modified later in their statement that "by law this bail cannot be removed." Holt said that the Earl of Lincoln's case, which was cited, was a different one. It was between the Earl and himself, and a matter of discretion in him. Parliament was then sitting in law. "There "was a *certiorari* out of Chancery to me to certify it hither, "which I did." But he added that there is no discretion if an indictment has been found, and the Judges had no warrant in law to bail the prisoners to appear in the House even if Parliament had been actually sitting. The Committee for Privileges, to whom the matter had been referred, could come to no definite conclusion, and reported "that they found many difficulties in the case." The Lords next took up the question of the legality of Aaron Smith's affidavit, a question affecting in reality, not privilege of Peerage, but the liberty of the subject. Smith, after persistent pressing,‡ was at last forced

* Lord Wolseley states (*Life of Marlborough*, II. 284) that Marlborough had petitioned the Court of King's Bench in vain in October to have his recognisances discharged.

† "Warm debates." "The House of Lords were high." "Very warm debates were." (Luttrell, Nov. 8, 12.) "The Lords passed some votes, asserting their privileges; and were offended with the Judges for detaining some in prison, though there was no reason nor colour for their displeasure. But where the privilege or the dignity of peerage is in question, it is not easy to keep the House within bounds." (Burnet, IV. 102–3.)

‡ Ralph says (II. 390) he refused till threatened to be committed.

to confess that he could not say there were two witnesses upon oath for High Treason against Huntingdon. There was one upon oath, and other evidence. The Judges agreed that one witness only upon oath was insufficient ground for a remand, and that, if the other circumstances were not upon oath, they were not evidence; but that, though two witnesses upon oath were necessary for a conviction, the Act did not intend that, in order to justify a remand, they should be witnesses upon oath, but only persons capable of giving testimony. The affidavit conformed to the Act, and it was not the Judges' business to enquire into the King's evidence. It was their duty to remand. The House then passed a Resolution, which was based upon the opinions expressed by the Judges, and which is, in effect, a quasi-judicial interpretation of the Act. It requires that, in future, affidavits of this kind should state explicitly that there were two witnesses against each prisoner* in order to justify a remand. After a motion, which was not pressed, for an Address to the King to order the Earl's recognisances to be discharged, the King himself adopted that course, and so put an end to an incident which party historians have tortured, on the one side, into an undue assertion of privilege by the Lords, and, on the other, into an enunciation by the Judges of infamous legal doctrines worthy of a Jeffreys.

The three other cases of privilege above referred to each involved a charge of murder. The first is that of the Earl of Lincoln (No. **567**), whose servants, in his presence, had beaten in the streets of Kensington, in November 1691, a boy named Webb, for what offence does not appear, unless Luttrell is right in saying that it was merely for "gazing at" his Lordship.† The boy died in the following February, and a coroner's jury returned a verdict of murder against the Earl and his servants. The latter were tried and acquitted, the jury—as appears from

* Luttrell (10 Nov.) is mistaken in suggesting that this Resolution related only to Peers, and his mistake has been repeated by later writers.

† Diary, 28 Feb. 1691–2. During the proceedings on the Duke of Norfolk's first Divorce Bill (No. 524), the Earl, who had spoken words of heat to the Earl of Rochester, and been reprimanded by the Speaker, was excused from kneeling on account of his "unwieldiness." Luttrell, in mentioning his burial in Westminster Abbey on 28 Nov. 1692, refers to his great bulk. According to the same writer, the persons tried and acquitted were the Earl's coachman and footman. The Indictment describes them as "labourers." Luttrell adds (1 March) that "two physicians who opened the boy, are of opinion that he died of an imposthume."

the Record brought up to the House—finding the boy to have died of "a consumption." The Earl appeared in the House (14 April 1692) in pursuance of his recognisance, entered into with sureties before Holt, and was admitted to a new recognisance of his own, in consequence of the acquittal of his servants, who were included in the same indictment.

Another well-known case was that of Lord Mohun (No. **658**), who was charged with complicity in the murder of Mountford the actor, by Capt. Hill,* on the night of the 9th of December 1692. After the murder, Mohun waited quietly on the spot till arrested, and was taken, next day, before the Justices at Hicks' Hall, who, after examining thirteen witnesses, admitted him to bail in 2,000*l.*, his sureties being the Lord Gerard of Brandon and Mr. Charles Montagu.† On the 12th, after the inquest, a fresh warrant was issued against him by the Lord Chief Justice, but, "to avoid a chargeable imprisonment, he withdrew himself."‡ On 11th Jan. 1692–3 his case came before the House on his Petition, in which he offered to surrender to the House, and prayed for a speedy trial at the Bar, and to be admitted meanwhile to bail. On the 13th the Committee for Privileges reported on this Petition that there was no precedent § for trying a Peer at the Bar, but only in Westminster Hall, and on the same day Mohun, "who was then walking in the "antechamber expecting an answer to his Petition," ‖ surrendered, and was sent to the Tower. The peers summoned to try him in Westminster Hall were limited to those "in town or within 20 miles thereof." Of the 116 thus summoned, 85 were accordingly present in the House on 31st January,¶ and

* Luttrell's account of the murder (Dec. 10) is inaccurate, as shown by the evidence at the trial, which is, on the whole, very fairly summarised by Macaulay (VI. 320–1). But the witnesses differed as to the tone of what passed between the watch and Mohun, and between the latter and Mountford, and also as to whether Mountford's dying statement, that he was stabbed before he could draw, was true. (State Trials, XII. 950.)

† See Mohun's Petition, and Luttrell, 13 Dec.

‡ See his Petition. Luttrell is wrong in saying (13 Dec.) that he was arrested under this warrant.

§ Luttrell says "but one precedent." (III. 13.)

‖ *Ib.* III. 11.

¶ Of the 31 who did not appear on 31st Jan., the Earls of Lincoln, Strafford and Berkeley were excused on account of sickness, but the Earl of Ailesbury was fined 100*l.* on 6 Feb. A motion to remit the fine was negatived on the 7th, but when he brought the money to the House on the 13th the fine was remitted, after two divisions. The consideration of what should be done to the rest was adjourned till after the trial, but never taken up.

these constituted the Court, though only 83 voted in the Judgment, the Earl of Sussex and Lord Sydney having been excused on the ground of sickness.* Almost the whole of the 31st of January was occupied in taking the evidence in Westminster Hall, the short notes of which, taken down by the Clerk, add nothing to the full report in the State Trials. On the Lords returning to their own House, the Bishops withdrew, and a motion was made to ensure the attendance of members of the Court, the terms of which suggest that the absence of certain lords had been noticed; and this motion gave rise to a debate which ended in a vote that the House shall not "now go on," 20 lords dissenting "because it may be of dangerous consequence in "cases of blood." The omission of this motion in the printed Journal seems to connect the adjournment of the trial with the withdrawal of the Bishops † instead of with the absence of some of the Court, who were, on the Court being called over, found to be Fauconberg, Newport, Lovelace and Leigh. A fine of 100*l.* was imposed upon them, which was afterwards remitted in their case; ‡ but the penalty was retained for future offenders, in substitution for an order requiring committal to the Tower. The greater part of the next two days of the trial was spent by the Lords in framing questions to be put to the Judges to ascertain the degree of guilt, if any, attaching to a person present at a murder, under different conditions of premeditation, sympathy with the murderer, and previous knowledge of his intention. In order to exclude from the purview of the Judges the matter of fact deducible from the evidence, the questions were all, with one exception, couched in abstract terms. The exception was a question, proposed

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* Macaulay (VI. 321) says that "as Parliament happened to be sitting, the culprit had the advantage of being judged by the whole body of the peerage." It was, no doubt, an unusually full House.

† Professor Thorold Rogers (Protests of the House of Lords, I. 108) appears to have been misled in this way by the Journal.

‡ Tindal (XIV. 71) says they were excused "on account of their being faint and quite spent with so long an attendance." The House met at 9 a.m., and Luttrell (Jan. 31) says the trial lasted till 6 at night, the High Steward having summed up the evidence about 3. On the other three days of the trial, Feb. 1, 3, and 4, the House met at 10 a.m., and adjourned on the 1st at about 8 p.m. (State Trials, XII. 1014), on the 3rd about 9 (Tindal, XIV. 72), and on the 4th they debated in the House till about 4 p.m. (5 o'clock, Tindal, *ib.*), before proceeding to Westminster Hall to vote and give judgment.

either by Willoughby d'Eresby or by Rochester,* "Whether, "in the eye of the law, Lord Mohun was aiding and abetting "in the murder"; but it was not agreed to by the House, and never put. The Calendar gives, from the MS. Minute Book, the terms of other questions, proposed by the Lord Chamberlain (Dorset), the Lord President (Carmarthen), the Lord Steward (Devonshire), and Warrington, which, in like manner, were never put to the Judges, and shows the gradual elaboration of some of those upon which the Judges pronounced their opinions. After Mohun's acquittal on 4 February by 69 votes to 14, a result not altogether unlooked for,† he presented a Petition complaining of a threatened prosecution, by Mountford's pretended widow, of a "Writ of Appeal" against him for the murder; but this Petition was dismissed on the ground that no such Appeal had been brought.‡

The third case of Privilege connected with a charge of murder was that of Charles Knowles, who claimed to be Earl of Banbury. On 6 Dec. 1692 he had killed his brother-in-law, Capt. Philip Lawson, of the Guards, in a duel fought behind Southampton House, and was seized and committed to Newgate. At the Old Bailey Sessions, where he pleaded peerage, two Bills of murder were found against him, one as a peer and the other as Charles Knowles, but Holt respited his trial till the Lords had decided whether he was a peer or not.§ Thereupon he petitioned the House on 13 Dec. (No. **631**) for a trial by his peers and to be admitted to bail, on the ground that he was of right, by descent, the Earl of Banbury. On reading this Petition, the House ordered Counsel to be heard at the Bar on 9 Jan.‖ The Clerk's Notes of the hearing, entered in the MS. Minute Book, are printed

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* The letters *E. r.* in the margin, if referring to an earl whose title began with *R.*, probably refer to Lord Rochester, the only other earls to whom they might refer being Rivers and Radnor, who took no prominent part in the trial.

† "Believed he will be acquitted." (Luttrell, 31 Jan.)

‡ Luttrell (4 Feb.) says Mrs. Mountford brought her appeal on 4 Feb., the very day of the acquittal.

§ Luttrell, Dec. 6, 10, 13.

‖ Luttrell, Dec. 24, is wrong in stating "the Committee of Lords have agreed that E. Banbury was a peer, and ought to have the benefit thereof." This probably, through some confusion of mind, refers to the report to that effect made by the Committee for Privileges on 19 July 1661 on the claim of his father Nicholas for a Writ of Summons.

in the Report of the Committee for Privileges on the Banbury Peerage, of 13 April 1808, but so inaccurately, that they are reprinted in this Calendar, with the addition of the proceedings on four days on which the Lords, after having, on 17 Jan. 1692–3, rejected Charles Knowles' claim of Peerage, were engaged in an inquiry into the circumstances under which his trial below had not been proceeded with, Rochester having complained that "the Judges had misbehaved themselves to this House" in the matter; * but the question was dropped, after several adjournments. An incident of this case was the appearance of the Solicitor-General at the Bar, instead of the Attorney-General, when it was moved that the latter should always be an Assistant to the House, and the Committee for Privileges were ordered to prepare an Address to that effect.

Some minor cases connected with claims of Privilege of Parliament may be briefly noticed. Privilege was allowed to L. Grey in stay of a suit by E. Rochester for part of an estate given him by James II. after Monmouth's rebellion (No. **535**), and to E. Mountague in respect of the *cause celèbre* in Chancery concerning the estate of the late Duke of Albemarle (No. **584**). It was refused to L. Howard of Effingham in respect of his wife, the executrix of a trustee (No. **554**), but allowed to L. Brooke, though an executor and trustee, on the ground that he had also a personal interest (No. **617**). L. Gerard of Bromley's claim of privilege against a suit for recovery of dower was rejected by a resolution, embodied in a general Order, on the ground that he had not taken the Oaths (No. **561**). The Standing Order that minor peers and widows of peers should not be allowed privilege of Parliament, saving their right of Peerage, was made after reading a Petition of Lady Mohun, complaining that her son, Charles, L. Mohun, had seized her jointure lands and the rest of her estate and threatened to insist on his privilege † (No. **715**). Dr. Thomas Wood, Bishop of Coventry and Lich-

* Luttrell, III., 24 Jan. 1692–3, says, "This day L. Banbury was brought to the King's Bench bar, and pleaded his peerage; on which the Judges committed him to the King's Bench prison, and will consider of his plea."

† According to Luttrell (II., Dec. 13) Lady Mohun had, only two months before, been attempting to intercede with the King to pardon her son for his alleged complicity in the murder of Mountford.

field, by insisting on his privilege, delayed till after his death the prosecution of the well-known lawsuit, in which the Duke of Southampton, son of Charles II. by the Duchess of Cleveland, claimed an estate of 4,000*l.* a year, the property of his late wife, daughter of Sir Henry Wood, although he had had no issue by her. The King had promised to settle 2,000*l.* on the Duke, but had never done so (No. **597**).* Dr. Thomas Watson, Bishop of St. David's, who had been excepted from the Act of Grace, was ordered to answer a Petition of inhabitants of his diocese, accusing him of oppressive and extortionate conduct. He was heard in the House, and declared that, as to the extortion, he would not insist on his privilege (No. **538**). Privilege was waived also by the Earl of Suffolk, who, as Henry Howard, had been committed to the Fleet for non-payment of money which had come into his hands as a trustee (No. **513**). The Surveyor-General of Woods begged pardon of the Duke of Bolton for having caused an Order to be served upon him relating to some timber in the New Forest, alleged to be ship timber, having been sold at an under value (No. **556**). L. Abergavenny complained that on 13 March 1692-3 a constable, accompanied by a number of other persons, broke into his house (an upholsterer's, the whole of which he hired except the shop) without a warrant, about 6 o'clock in the morning, and rushed riotously into his room when he was in bed, on pretence of searching for a highwayman.† The evidence given at the Bar put a slightly different complexion on the incident, and his Lordship's petition was rejected (No. **734**). A holograph Petition of Sir Robert Atkyns, the Speaker of the House, if indeed a case of Privilege of Parliament, may be noticed here. In this Petition, the spelling of which is curious, he claims, as Chief Baron, the right to sign the quarterly accounts of the Customs, and to receive the usual fee of 10*l.* for his signature, in preference to the four Barons of the Court of Exchequer, any one of whom the Comptroller-General claimed the liberty to attend for that purpose. Sir Robert, whose

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* See also last Calendar, No. 287.

† An Act which received the Royal Assent the following day (4 W. & M. c. 8.) gave a reward of 40*l.*, payable by the Sheriff of the County, to any person apprehending a highwayman and prosecuting him to conviction.

claim was disallowed, was heard in support of his Petition, and Mr. Lytcott, the Comptroller-General, and Barons Turton, Powell and Letchmere against it (No. **627**). Sir Robert figures also in an Appeal, in which he offers to waive his privilege and go to a trial at Common Law. He had been charged by the Appellant, Thomas Tooke, whose guardian he was alleged to have been, of having misappropriated money during Tooke's minority. The Chief Baron had brought his Bill in the Exchequer, but had not sat as judge at the hearing; he sat uncovered among the Counsel, to whom he left his case to manage (No. **518**).

The privilege of Peers to grant Protections to their servants occasioned, as usual, a variety of complaints, by persons so protected, of having been arrested for debt. In the case of John Smith, hunting groom to the Duke of Northumberland, the parties who arrested him were attached, though the House was informed that Smith received no wages (No. **657**). John Beesley was ordered to attend the House on a charge of having distrained the cattle of some of E. Huntingdon's tenants. When remonstrated with, he replied, "My Lord is in the "Tower, and may have his head chopped off; and then where "must I have my money?" (No. **728**). The abuses still connected with this Privilege, notwithstanding the regulations made by the House, are illustrated by a complaint against Lord Morley, a prominent offender,* for granting Protections without having them entered in the Parliament Office, which resulted in his committal to the Tower. It appears that the town of Hornby, where he lived, was nicknamed "the Whitefriars," no sheriff's officer venturing to serve a writ there without his leave, "and the men the blackguards" (No. **514**). The failure of this regulation to suppress the practice of counterfeiting Protections is further shown in the case of John Slaughter, a plumber, of Rochester, who was ordered to be attached for counterfeiting E. Scarborough's Protection and having it entered in the Sheriff's Office (No. **618**). Extracts from the MS. Minute Book of the proceedings of the House on the 17th of November 1692 and subsequent days, when several Protections were vacated, will be found under this

* See Calendar, 13th Report, No. 241, and Introduction, p. xvi.

number, and betray the entire ignorance and disregard of the Orders of the House on the part of individual lords granting Protections. The judgment of the House, granting costs against William Beaw, son of the Bishop of Llandaff, in an Appeal as to the validity of a grant of the Chancellorship of the Diocese jointly to two persons, was in danger of being frustrated by the bishop's Protection to his son as his Secretary (No. **522**).* In connection with the privileges of the House may be mentioned the attachment of a person for assaulting the messenger sent to serve an Order of the House upon him (No. **585**).

With regard to the King's servants, whose privileges, guarded by the Lord Chamberlain, still formed a matter of cognizance by the House, until their abolition in 1693, there are seven cases of Gentlemen of the Privy Chamber complaining of having been arrested for debt, and in six of these † privilege was allowed, the petition of the seventh, Richard Hargrave, being referred to the Committee for Privileges and not further proceeded with (No. **725**). Privilege was allowed also to Mark Smith, one of the King's Watermen in Ordinary, who had been arrested on a pretended bail bond, and was ordered to be discharged (No. **709**).

A considerable number of Estate Bills, mainly for the sale of lands for the payment of debts, were introduced during this period; but the great bulk of them became Acts with little or no alteration of any importance, and are thus of very little value as original records, the contents and schedules of rents annexed to some of them possessing interest only for the local historian. There are a few exceptions. The Bill for the sale of the Office of the Warden of the Fleet and thirteen adjoining houses and the custody of the Palaces at Westminster, the inheritance of which had descended to Thomas Bromhall, an infant under 7 years old, for payment of the debts of his uncle, the late Warden (No. **629**), shows

* The Book of Protections contains the entry of a Protection of the bishop for his Secretary, entered on 24 Nov. 1691, and vacated on 21 Nov. 1692, and a similar entry on 17 Nov. 1692, never vacated.

† Viz., Robert Fitz Gerald, William Killigrew, Thomas Waller, John Harrington, William Laycock and Sir John Ashfeild (Nos. 583, 587, 626, 648, 705, and 714). Killigrew, according to Luttrell (III., 18 April 1693), was a favourite of the King, who gave him the coat in which he was shot in the shoulder at the Boyne, and which was exposed to view in the Tower.

the numerous alterations made before it became an Act. It appears from the Papers that Richard Manlove, the Grantee of the Office, had forfeited it for extortion, and the King had granted it to Col. Baldwin Leighton, for his services; but a question had arisen whether, on forfeiture, it reverted to the Crown or to the person having the inheritance, and the Judges had decided in favour of the Reversioner, the assignee of Sir Jeremiah Whichcott, who was the original grantee. A Bill enables Thomas E. Sussex, by the sale of some of his property, to make provision for his wife and daughters, and to pay off a debt of 20,000*l.* "partly contracted by his "late father Francis, Lord Dacre, and partly occasioned by "the great expense he has been put to by his marriage" with Lady Anne, the 20,000*l.* promised him by Charles II. as her portion not having been paid, nor being likely to be paid* (No. **675**). This Bill also reached only a First Reading, and does not appear to have been brought in again.† A Bill for the payment of the debts of John L. Stawell, which amounted to over 72,000*l.*, exceeding the personal estate by nearly 27,000*l.*, shows the protracted discussions, in the Lords' Select Committee, in a matter which created much public interest at the time (No. **682**). The main dispute was whether the powers of sale should be extended to the whole real estate or not, and led to the abandonment of the Bill, William, the then L. Stawell, proposing to bring in another; and a Bill corresponding largely with this one was passed in 1694. A Bill, which became an Act, for an exchange of lands in Fulham between the Bishop of London and E. Monmouth (No. **699**) contains, among others, a clause to let Great Hurlingham Field for building, and one relating to Hellbrook Common, "as being for the advantage of the poor." A Petition of John Bush (No. **681** (*b*)) complains of having been kept out of his ancestral lands near Iford by Henry Baynton, who was then in possession, setting up his privilege as a Member of Parliament.

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* He married Lady Anne Palmer, alias Fitzroy, daughter of Lady Castlemaine by Charles II., who, says Brydges (Peerage, VI. 582), gave her 20,000*l.* on her marriage. He adds (*ib.* 581) that E. Sussex's embarrassments were caused by his extravagance, losses at play, and neglect of his affairs.

† Brydges, however, states that the Earl sold Hurstmonceaux and other lands in Sussex (*ib.* 581).

Of the other Private Bills, besides the Estates Bills, the most important were the two for D. Norfolk's divorce. The first (No. **24**) was "opened" on 8 Jan. 1691–2 by E. Strafford, to whom the House had, the day before, given leave to "open the Bill,"* and the Duke himself was "heard as to the transaction of the business." The notes recorded in the MS. Minute Book are instructive as to the method of procedure. The arguments of Counsel on 12 Jan. suggest that the grounds of the protest of 19 Lords against the reception of the Bill were that it was unprecedented, as not being founded upon a previous trial, or an ecclesiastical sentence, as in the case of M. Northampton's Act. Some curious points in regard to the Divisions and the use of proxies on this Bill will be noticed later.† The Second Reading was finally nega-

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* Clifford (Private Bill Legislation, I. 401) has been misled by the Index to the Lords' Journals, which connect with the Duke's divorce the proceedings on his petition of the previous month (last Calendar, No. 461) relating to the Office of Earl Marshal.

† An analysis of the entries in the Book of Proxies, taken in conjunction with the signatures to the Protest of 12 Jan., the names of the Tellers in the Divisions, and Bishop Burnet's comments on the proceedings on this Bill (*Own Time*, IV. 226–8), has revealed the names of almost all the Lords opposing the Bill, as well as those of some of its supporters, viz.:—

In favour.	E. Marlborough.
Abp. Canterbury.	E. Monmouth.
E. Lincoln.	E. Montagu.
E. Nottingham.	E. Mulgrave.
E. Radnor.	E. Rochester.
E. Scarborough.	E. Shrewsbury.
E. Stamford.	E. Sunderland.
E. Thanet.	E. Torrington.
V. Villiers.	V. Newport.
Bp. Norwich.	V. Sidney.
Bp. Worcester.	V. Weymouth.
L. Howard of Effingham.	Bp. London.
Against.	Bp. Rochester.
E Carmarthen (L. President).	Bp. St. Davids.
D. Somerset.	Bp. Winchester.
M. Halifax.	L. Carteret.
E. Ailesbury.	L. Chandos.
E. Bridgwater.	L. Cholmondeley.
E. Clare.	L. Eure.
E. Craven.	L. Godolphin.
E. Denbigh.	L. Granville.
E. Fauconberg.	L. Lucas.
E. Feversham.	L. Maynard.
E. Lindsey (L.-Great Chamberlain).	L. Vaughan.

The E. Bedford and L. Fitzwalter, whose Proxies had been held by opponents of the Bill, are entered in the Book of Proxies as having vacated their Proxies by their presence on 17 Feb., the day of the final Division, although they are not entered

tived, but the objections taken to the Bill induced the Duke to bring an action of Trespass on the Case against Germaine in the King's Bench, in which the jury found for the Duke, with 100 marks damages, and were severely reprimanded by Chief Justice Holt for imposing so small and scandalous a fine. On 22 Dec. an almost identical Bill (No. **642**) was offered to the House, but, after the Record of the trial below had been read, and the House had been informed that the Duchess, though willing to waive her privilege, had not been made a party, the motion to read the Bill was negatived. The Draft of the Act incorporating the Proprietors of the Waterworks at St. Paul's Shadwell (No. **531**), and a Bill to restore to William Walcot his Patent for making sea water fresh (Nos. **723**, **729**), complete the list of strictly Private Bills.

Besides the Appeals already mentioned, a few may be briefly noticed. No. **510** is an episode in the family history of the Northcotes of Hayne, the ancestors of the Earls of Iddesleigh. In No. **543** Lord Stawell is charged with having abused his position as a trustee, in defiance of an Order of Chancery obtained irregularly in 1688, "amidst the great "consternation, when L. Chancellor Jeffreys was hard to "be found." No. **579** relates to the disposition of the personal estate of William Earl of Meath. Penelope Mainstone, youngest daughter of Chief Justice Sir William Jones, and widow of an East India merchant, who had left her the residue of his property, is Respondent in an Appeal (No. **696**) brought by her late husband's nephew, the son of a servant maid who afterwards married a country tailor, for his uncle's property. No. **720** terminates a lawsuit, as to the performance of a marriage settlement, between Charles Lord Baltimore, and his sister's husband, Sir William Blakiston, Bart., who had, by a Chancery Decree, obtained possession of his Lordship's manor of Danby Wiske during the latter's absence as Governor of Maryland. Cecil, Lord Baltimore, father of Charles, is stated to have saved Sir William when he had fallen "into some

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either in the MS. Minutes or in the printed Journal as present on that day. If they voted in the final Division, they bring up the number of opponents ascertained to 37, of whom 35 were among the 40 recorded as voting against the Second Reading. Bishop Burnet speaks of them as "all that favoured the Jacobites and those who "were thought engaged in lewd practices," but is contradicted by Lord Dartmouth in his footnote to this passage (*ib.* 228).

misfortune, whereby his life was in danger." No. **704** represents a quarrel over the personal estate left by Dr. Thomas Yate, late Principal of Brazenose College, Oxford. No. **650** gives some interesting particulars as to a ship sent to Algiers to ransom 48 English captives with money collected by charity, and paid for that purpose by the King and the Bishop of London. The money was embezzled by an English merchant at Algiers, and the ship would have been seized by the "bassaw," and its master enslaved, but for the forcible intervention of Lord Berkeley, who, with Sir Cloudesley Shovell, arrived with an English squadron under the command of the Duke of Grafton. In No. **669** the Appellants, West India planters, complain of extortion on the part of the African Company before granting them licence to trade with Africa for slaves; and No. **679** relates to the alleged concealment of prizes and prize goods by the East India Company, in order to defraud the Lord High Admiral of his tenths and the seamen's sixths promised by the Company in return for the help given them by the King's ships in their war with the Great Mogul. Nos. **606** and **636** relate to the ownership of a part of the royal forest of Duffield, called the Milkey, which Charles II. had granted to Thomas Eyre, stated to have been Counsel for one of the Commoners, as a reward for his reporting the damage done by the Commoners to the Crown property. In No. **698** the question turned on some old mills on the river of Merton Abbey having been deprived of water by the erection of a new mill. In No. **707** Sir Thomas Fitch, Bart., and John Fitch, the Appellant and Respondent, were partners in the work of building fortifications at Chatham, Portsmouth, and elsewhere, in which the latter was well skilled and was the active partner, the former being alleged to have taken fraudulent advantage of the money passing through his hands. No. **670** discloses a money bargain for the appointment of a Sworn Clerk in the Six Clerks' Office. No. **580** was occasioned by the competing claims of Shrewsbury Grammar School and Clive Chapel on the rectory of Cherbury, by a grant from Queen Elizabeth; and Nos. **716** and **590** were brought respectively in connection with Bennet's Charity, under which the tithes of Bourton were to be paid to the poor of Buckingham, Beachampton, Calverton and Stony Stratford, and

Norton's (Bellamy's) Charity to the poor of Oundle and some other towns, the question in the latter being whether a purchaser of lands charged with the Charity, without notice of the charge, could be held liable to contribute.

With regard to the particulars of Divisions recorded in the MS. Minute Book, it should be observed, in the first place, that although the number of the Lords voting "Content" is always placed first, the order in which the names of the Tellers are entered affords no clue to the side on which they voted. The rule apparently followed by the Clerk was to enter them according to their precedence, invariably so when differing in rank, and with only a few exceptions when of the same rank, in which case the Clerk might often be uncertain as to their precedence without consulting Garter's Roll.

The unrestricted use of Proxies in Divisions appears at this period to have attracted the attention of the House. In the proceedings on D. Norfolk's first Divorce Bill (No. **524**), which aroused a great deal of religious party feeling as well as personal partizanship,* in the first seven of the nine Divisions Proxies were used, which turned the scale against the Bill in five cases, in three only by an equality of votes, in accordance with the old rule, "semper præsumitur pro negante."† At length, on 16 Feb. 1691–2, it was moved to consider whether Proxies should "be used in the proceedings on this "Bill of the Duke of Norfolk," upon which the previous question was put and carried by only three votes, the majority using 9 Proxies against 17 counted by the minority. The main question was then voted upon without Proxies, and was carried against the further use of Proxies by 13 votes. The defeated party protested against this decision on three grounds, first, that voting by proxy was an inherent right of the Peers; secondly, that the persons interested had not heen heard; and thirdly, that it was unreasonable to use Proxies in a vote directed against the use of Proxies, thus making, in effect, the Lords

* Burnet's *Own Time*, IV. 228.

† One of these Divisions was upon a proposal that the Speaker put off his hat when the Duchess comes in (to go to the chair set for her at the Table), and then sit down and speak to her with his hat on. After debate, this was agreed to, a proposal that he should stand with his hat off when speaking to her being negatived; and the same rule was ordered to be observed when he addressed any Lord or other person.

concerned to vote against themselves. The right asserted in the first of these objections has never been abolished, and it was not until 1868 that the practice of calling for proxies on a division was formally forbidden by a Standing Order which expressly contemplates its own possible suspension. The principle involved in this vote, which excluded Proxies from the decisive Division on the Bill, had already been embodied, in 1689, in a Standing Order allowing them to be used in preliminaries to private causes, but not in giving judgment;* but it was only in 1697 that, by Standing Order CIX., their use was prohibited in all judicial causes, "although the proceedings be by way of Bill." In the following Session Proxies were used in preliminary Divisions on the Banbury Peerage Claim, one being on the Previous Question to the main question as to the Petitioner's right (No. **631**); and they were also used in the Division rejecting D. Norfolk's second Divorce Bill (No. **642**).

The germ of a further restriction of the use of Proxies is contained in the proceedings on the Place Bill (No. **643**). Macaulay, in his account of the debates on this Bill, mentions that three out of the seven Proxies recorded against the passing of the Bill "were questioned, and were with difficulty admitted."† The Proxy Book shows that the three Proxies entered on the 3rd Jan. 1692–3, the day of the Division, were those of Huntingdon, Hatton and Essex, held by Scarsdale, Nottingham and Portland respectively, the first and last having been given only on that day. The House ultimately allowed these Proxies, without dividing, though it would appear that a Division was challenged but not persisted in; and it was not until four years afterwards, on 20 March 1696–7, that an Order was made "that no Proxy entered in the "Book after Prayers shall be made use of the same day," which was added to the Standing Orders on 16 Jan. 1702–3.

E. Fairfax Taylor.
Felix Skene.

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* Proxies were used in the Appeal of Englefield (No. 628), in the following Session, in deciding the question whether the Report should be then made, preparatory to giving judgment, thus adhering to the letter but disregarding the spirit of this Standing Order.

† Hist. England, VI. 354. His statement that there were only two Proxies for the Bill is wrong. The MS. Minute Book shows there were three. The Bill was lost by 2 votes, not, as he says, by 3.

ABBREVIATIONS USED IN THE FOLLOWING CALENDAR.

MS. Min.—MS. Books containing Minutes of the proceedings in the House, and intituled "Journal."

Com. Book.—MS. Books containing Minutes of the proceedings of Select Committees.

Priv. Book.—MS. Books containing Minutes of the proceedings of the Committee for Privileges.

THE MANUSCRIPTS OF THE HOUSE OF LORDS.

1691–2.

510. Jan. 2. Northcote *v.* Northcote. — Amended Petition and Appeal of William Northcote, Esq., and Alice his wife, executrix of John Northcote, deceased. Sir John Northcote, of Hayin, co. Devon, in 24 Car. I. devised his estate, worth 30,000*l.*, to trustees for a term of 99 years, commencing at his death, for raising 4,000*l.* for the benefit of his younger children, as directed by his will, and settled the inheritance on his eldest son Arthur, with remainders in tail male. He paid debts, contracted by Arthur, amounting to 3,000*l.*, in addition to which he paid for him 600*l.* to Thomas Panton, Esq., and paid and secured 500*l.* to Henry Travers upon several judgments, whereof he procured assignments, to reimburse the same out of Arthur's estate, and stood bound for him for 200*l.* each, to the late D. Albemarle and Henry Northleigh, Esq., and promised to countersecure his sureties for 200*l.* each to Lady Clifford and Dr. Bidgood, and caused countersecurity for the said debts to be taken from him. In June 1675 he made his will, in which, on condition that Arthur should discharge his executors, namely, the Petitioner William and John Northcote, deceased, of the sums due to D. Albemarle and Northleigh, and of 200*l.* due to John, the testator's son, for which he stood bound, and also of Travers' judgment, whereof 100*l.* had been paid, he forgave Arthur all the other sums, except 100*l.*, which he bequeathed to Arthur's daughter Elizabeth. Sir John died on 24 June 1676, and his executors paid the debts to Lady Clifford and Dr. Bidgood, and what was due on Travers' judgments. Sir Arthur reimbursed them these sums and entered on the estate, and took all the profits thereof, without regard to the trust for 4,000*l.*, and never paid the debt to Northleigh nor the other debts mentioned in the will. An ejectment being brought under the title of the trustees, Sir Arthur brought a Bill in Chancery against the Petitioner William, as the surviving executor, and the legatees and trustees for relief touching the 4,000*l.*, and the sums paid by Sir John or out of the estate and referred to in his will, and particularly the debts to Lady Clifford and Bidgood and the judgments obtained by Panton and Travers, on pretence that Sir John had forgiven him all the debts except 160*l.* still due to Travers. Petitioner answered that Sir John had not released him from any of the debts otherwise than as mentioned in the will, and that Panton's judgment was never intended to be released, as the assignment contained an express covenant that satisfaction should not be acknowledged thereon, and an action of covenant brought for the breach thereof, and that the same and the money due on Travers' judgment were expressly intended not to be forgiven. The L. Keeper Guilford on 11 June, 35 Car. II., decreed to Sir Arthur the benefit of the will, though he had not performed the conditions, and ordered the executors to reimburse him; but before an account was taken, Sir Arthur died heavily in debt. His son Sir Francis brought a Bill in 1689 for relief against the ejectment at law, and to have the benefit of the account decreed to be made by his father, and of the money decreed to be reimbursed towards discharge of the

HOUSE OF LORDS MSS.

1691–2.

4,000*l.*, and in colour made Lady Elizabeth, Sir Arthur's widow and executrix, a Defendant, who has since obtained a report *ex parte* against Petitioner for 2,727*l.*, including moneys received by Lady Elizabeth of one George Joy upon the sale of Beauford, and paid to one Edward Roe upon the sale of the manor of Pyworthy. Appeal from the said Decree and proceedings thereon, and pray that Sir Francis and Lady Elizabeth may be ordered to answer, and all further proceedings stayed. *Signed* by Appellants; *Countersigned* by Jo. Hawes and John Rowe. L. J., XV. 31. [The Appeal was heard and dismissed on 16 Feb. 1691–2, the *Solicitor-General* and *Mr. Rowe* appearing for Appellants, and *Mr. Trevor* and *Mr. Finch* for Respondents. *See also* under date 10 Dec. 1702 and *Colles'* Cases in Parliament, p. 287.]

Annexed:—

(*a.*) 16 Jan. 1691–2. Answer of Sir Francis Northcote, Bart. Respondent believes there were three decrees made in the cause, but he was not a party to either of them. Sir Arthur and the Appellants and trustees have received more than the 4,000*l.* with interest out of the trust estate. The Appellants alone have received 3,000*l.*, and have a decree against Sir Arthur for an account of his receipts. Appellants, with the privity of the trustees, brought their action of ejectment against Respondent, simply to oppress him. He has brought his Bill against Appellants and others to stop proceedings on the ejectment, and hopes therefore that the Appeal will be dismissed against him, as not having been a party to the former decrees, but claiming under settlements made long before them. Appellants have appealed against the first decree and not against the subsequent ones, and also against a report and decree thereon to which Respondent was not a party. *Signed* by Respondent. *Endorsed* as brought in this day.

(*b.*) 16 Jan. 1691–2. Answer of Dame Elizabeth Northcote. Sir John's executors, under colour of some countersecurities given to Sir John and some assignments of judgments, unjustly compelled Sir Arthur to pay 1,600*l.* and upwards for debts from which Sir John had discharged him. As to the trust estate charged with raising the 4,000*l.*, the executors received part of the profits, and Sir Arthur the rest, and afterwards, the executor John Northcote being about to marry the Appellant Alice, and not being able to make any jointure, as no part of the estate had been allotted for Sir Arthur's support until the 4,000*l.* was raised, it was agreed by all parties, by articles of 30 Sept. 1677, that part of the trust estate should be exempted from the 4,000*l.* during Sir Arthur's life, the profits to go to the maintenance of Sir Arthur and his family, and another part, similarly exempted, to the maintenance of John Northcote. John afterwards died, and Appellants intermarrying endeavoured to set aside the articles, and evict Sir Arthur from the estate, whereupon the latter brought a Bill against them and the legatees and trustees to be repaid the 1,600*l.* with interest. A decree thereon was made on 11 June, 35 Car. II., another on a rehearing on 8 Nov., 36 Car. II., and a third, on a further rehearing by L. Chancellor Jeffreys, on 3 June, 3 Jac. II., when Sir Arthur was ordered to pay to Mr. Northleigh a certain debt, not previously insisted on, and the former decrees were in all other respects confirmed. Respondent, after Sir Arthur's death, revived the decrees as his executrix, and on 31 March 1691 got the Master's report showing 2,727*l.* due to her from Appel-

lants, which report was finally confirmed by an Order in Chancery on 22 July following. Prays that the Appeal, which is only from the first decree, may be dismissed with costs. *Signed* by Respondent. *Endorsed* as brought in this day.

(*c.*) 19 Jan. 1691–2. Petition of Appellant for an early day for hearing. L. J., XV. 38.

(*d.*) 23 Jan. 1691–2. Petition of Appellant for leave to amend a clerical error in his Appeal. L. J., XV. 45.

511. Jan. 2. Small Tithes Recovery Bill.—Commons' Engrossment of an Act for the more speedy and easy recovery of Small Tithes.

The Bill, as brought from the Commons, consists of 15 clauses. It omits Sect. xiv. of the Act of 1696 (7–8 Will. III. c. 6.) and adds two clauses, Nos. 5 and 14, which are not in that Act, viz. :—

Clause 5. Provided also and be it enacted, that no person shall have any other suit or remedy for the recovery of any small tithes, offerings, oblations, obventions or compositions than is given or provided by this Act, unless the title be concerned, or the value of the tithes demanded of any one person in any one year shall exceed the value of forty shillings.

Clause 14. Provided also that this Act, nor anything herein-contained, shall extend to any Peer * of this realm, but such proceedings may be had against him or her as might have been before the making of this Act, anything herein-contained to the contrary hereof in any wise notwithstanding.

Clauses 3 and 13 are the same *verbatim* as Sections iv. and xiii. of the Act, and the remaining 11 clauses agree with the rest of the Act, except in the following passages, where the Act omits the words in square brackets and adds those in italics, viz. :—

Clause 1 (Sects. i. and ii.).

. . . detained, *where the same do not amount to above the yearly value of forty shillings from any one person,*† Be it enacted by the [King and Queen's] *King's* most excellent [Majesties'] *Majesty*† . . .

. . . that all *and every person*† and persons . . .

. . . by the space of [six] *twenty* days at [the least] *most*† after demand . . .

. . . to make *his or*† their complaint in writing unto two or more of [their Majesties'] *his Majesty's*† Justices of the Peace within that county, *riding,* city, town-corporate . . .

. . . [whereof] neither of [them] *which Justices of Peace*† is to be patron . . .

. . . obventions or compositions [as]† aforesaid, [who]. *And be it further enacted by the authority aforesaid, that if hereafter any suit or complaint shall be brought to two or more Justices of the Peace as aforesaid, concerning small tithes, offerings, oblations, obventions or compositions as aforesaid, the said Justices*† are hereby authorized and required . . .

. . . as upon the merits of the [case]† *cause* shall appear just.

Clause 2 (Sect. iiii).

. . . detaining them by the space of [six] *three* days . . .

. . . shall and may make *public*† sale of the same . . .

Clause 4 (Sect. v.).

. . . that this Act,[nor] *or* anything herein-contained, shall *not*† extend . . .

Clause 6 (Sect. vi.).

. . . unless the complaint shall be made within the space of [one year] *two years* . . .

Clause 7 (Sect. vii.).

. . . county, *riding,*† city, town-corporate or division . . .

. . . [and] *or*† the major part of them shall find cause . . .

. . . writ out of [their Majesties']† *his Majesty's* courts . . .

* The words ("*or Peeress*") were here added by the Lords, and agreed to by the Commons (C. J., X. 658). The amendment is a purely verbal one, in view of the words ("or her") which occur later on.

† These variations from the Act reappear in the Bill of 1693–4.

HOUSE OF LORDS MSS.

1691–2.

Clause 8 (Sect. viii.).

. . . substracting or [holding away] *withholding* any small tithes or other [dues] *duties** aforesaid

. . . he *or she* is or ought to be freed . . .

. . . dues in question, *and deliver the same in writing to the said Justices of the Peace, subscribed by him or her,* and shall then give

. . . in any of [their Majesties']* *his Majesty's* courts . . .

. . . against him, *her* or them . . .

. . . in the matter [so complained of], *and that then and in such case the person or persons so complaining shall and may be at liberty to prosecute such person or persons for their said substraction in any other Court or Courts whatsoever, where he, she or they might have sued before the making of this Act,* anything in this Act to the contrary notwithstanding.

Clause 9 (Sect. ix.).

. . . enacted by the [authory] *authority*† aforesaid . . .

. . . General Quarter [Sessions]* *Session* . . .

. . . and that he shall not [have] *ask or receive** for the enrolment of any one judgment [more than] *any fee or reward exceeding** one shilling . . .

. . . and satisfaction *made* by paying the *same* sum so adjudged . . .

Clause 10 (Sect. x.).

. . . [in case] *if** he, she or they had not removed . . .

Clause 11 (Sect. xi.).

. . . which [incurred] *became** or were due . . .

. . . first day of [January] *October,* which shall be in the year of our Lord one thousand, six hundred, ninety [two] *six.*

Clause 12 (Sect. xii.).

. . . false and [malicious] *vexatious* . . .

Clause 15 (Sect. xv.).

. . . for [seven] *the space of three* years . . .

Parchment Collection.—[The Bill was brought from the Commons this day (L. J., XV. 14), and referred on 14 Jan. to a Select Committee (*Ib.* 29). The Committee met, with the Bishop of London in the Chair, on Jan. 16, but only to adjourn, and again on the 18th, when, after reading the Bill, they agreed to postpone the clause relating to limitation of complaints (sect. vi. of Act), and adjourned till the 19th to hear the Archbishop of York. On the 19th, L. Cornwallis in the Chair, the Bill was amended by adding the Provisos X., A., and B., by inserting the words ("*or Ecclesiastical Judge*") after ("Justices of the Peace") in the places corresponding with Sect. vi., line 2; Sect. viii., lines 2, 6, 9; Sect. x., line 4; Sect. xi., line 3; and Sect. xii., line 1 of the Act (Fol. Ed.), and by making the two verbal alterations in Clause 9 (Sect. ix.) and Clause 14.‡ The Commons agreed to the two verbal alterations, disagreed to Proviso X., and agreed to Provisos A. and B., with amendments (C. J., X. 658). A Conference was had and reported on 22 Feb., and the Report ordered to be read the next day. (L.J., XV. 88.) No further proceedings, however, are recorded, and the Bill dropped with the Session; the House adjourning on 24 Feb. till 12 April, when the Prorogation supervened. (*Ib.* 94, 95.)]

Annexed:—

(*a*.) 22 Jan. 1691–2. Engrossed Proviso, marked X., as follows:—Provided also and be it enacted that no person who shall make his complaint to any Justices of the Peace for any tithes, offerings, oblations and obventions by virtue of this Act, shall and may,

* These variations from the Act reappear in the Bill of 1693–4.

† Corrected by the Lords, and amendment agreed to by the Commons on 9 Feb. C. J., X. 658.

‡ *See* Com. Book and Annexes (*a*) (*b*) (*c*) and (*d*) below.

after such complaint made and any proceeding thereupon for the same matter or thing, have any further or other remedy in their Majesties' Courts Ecclesiastical within this Kingdom; and if at any time hereafter any such suit for such tithes, offerings, oblations or obventions shall be commenced in any Ecclesiastical Court, the proceedings in such suit shall be summarily and *vivâ voce*, without delay or vexation, and shall be heard and determined in one or two Court days at most; And that no person shall hereafter be excommunicated for not obeying the summons or sentence of the Ecclesiastical Court for such suit for Small Tithes. But if any person shall be cited before the Ordinary for not paying his tithes, oblations, offerings or other Ecclesiastical dues, and, upon return made of such citation, shall not appear at the time appointed, and shall wilfully abstain from appearing for one Court day after the said return, or, appearing, shall not make answer to the Petition or Libel of the Complainant, that then the Ordinary shall examine upon oath *ex parte* what Small Tithes or composition for the same, and what offerings, oblations and other ecclesiastical dues were justly due from the person or persons so summoned at the time of the said summons, and proceed to give sentence as if the said person had appeared and answered; and upon the disobedience of such person to the said sentence, the Ecclesiastical Judge shall certify the same unto two Justices of the Peace of the County where the cause of such suits or complaints shall arise, who shall have full power and authority by virtue of this Act, and are hereby required upon receipt of such certificate, to send their warrant or warrants under their hands and seals, directed to the Constable, Churchwardens, or Tythingmen of any such parish, township or village where the person or persons, whose disobedience to any such sentence shall be so certified, then hath or shall have any goods or chattels, thereby requiring them to levy all and every such sum and sums of money which shall be mentioned and expressed in such certificate by distress and sale of the said goods and chattels or any part thereof, restoring unto such person or persons the overplus of such goods or chattels over and above the said sum or sums of money, and the reasonable charges of making such distress, which he or they are to deduct out of the money raised by sale of such goods and chattels; which said constables, churchwardens and tythingmen are hereby authorised and required to levy the said money accordingly, and to pay the money so levied to such person or persons, his or their assigns, who first commenced the said suit in the Ecclesiastical Court; And in case the Ecclesiastical Judge shall proceed otherwise, then the suit is and shall be dismissed from the Ecclesiastical Court with costs. [Added in Committee after original Clause 5 on 19 Jan. (Com. Book), and reported and ordered to be engrossed this day. (L. J., XV. 44.) Disagreed to by the Commons on 9 Feb. by 84 to 56. (C. J., X. 658.)]

(*b.*) 22 Jan. Engrossed Proviso, marked A., as follows:—Provided that in case the said Justices of the Peace or Ecclesiastical Judge shall refuse to receive such reasonable security, the party or parties so aggrieved may in such case apply him, her or themselves to the Justices of the Peace at the General Quarter Sessions, who are hereby empowered to take such reasonable and sufficient security. [Added in Committee after original Clause 8 on 19 Jan. (Com. Book), and reported and ordered to be engrossed this day.

HOUSE OF LORDS MSS.

1691–2.

(L. J., XV. 44.) Agreed to by the Commons on 9 Feb. with the omission of the words ("or Ecclesiastical Judge"). C. J., X. 658.]

(*c.*) 22 Jan. Engrossed Proviso, marked B., as follows:—Provided also, and be it enacted by this Act, that the recovery of small tithes shall and may be extended to all causes relating to the recovery of wages and dues belonging to parish clerks and sextons within the Kingdom of England, dominion of Wales, and town of Berwick-upon-Tweed, any law, custom or usage to the contrary notwithstanding. [Added in Committee after original Clause 14 on 19 Jan. (Com. Book), and reported and ordered to be engrossed this day. (L. J., XV. 44.) Agreed to by the Commons on 9 Feb. with the addition of the words ("Churchwardens' rates and") after ("relating to the recovery of"). C. J., X. 658.]

(*d.*) 22 Jan. Lords' Amendments to the Bill. [Made in Committee 19 Jan. (Com. Book), and reported this day. (L. J., XV. 44.) *Noted* in margin are the Resolutions of the Commons agreeing or disagreeing to them (*Comp.* C. J., X. 658).]

(*e.*) Commons' Resolutions agreeing to certain of the Lords' Amendments, disagreeing to others, and agreeing to others with amendments. (C. J., X. 658.)

(*f.*) Commons' Reasons for disagreeing to Clause X. (C. J., X. 681.) *In extenso.*

(*g*) Abridged copy of the Bill, with notes and proposed amendments in the margin. *Endorsed* The Bill now before the House, 1691, Jan., concerning small Tithes.

512. Jan. 4. Bishopric of London Act.—Amended Draft of an Act to enable the Bishop of London and Trustees to sell the manor of Bushley, in the county of Worcester, part of the Bishopric of London, and to purchase other lands to be annexed to the said Bishopric, for the improvement thereof. The Lords' Amendments (Com. Book, 7 Jan.) are to leave out ("or three lives") after ("twenty-one years") in the first enacting Clause enabling the Bishop to grant leases of the lands to be purchased, and to fix the yearly rent to be reserved on such purchased lands at 80*l.* The Draft, as thus amended, is identical with the engrossed Act, the Commons' Amendments (C. J., X. 656) being corrections of errors in engrossing it. [Read 1ª this day; Royal Assent 24 Feb. (L. J., XV. 14, 93), 3–4 W. & M., c. 21. in Long Calendar.]

513. Jan. 4. V. Villiers *v.* E. Suffolk.—Petition of Edward, Lord Viscount Villiers, on the behalf of his sisters, daughters of Sir Edward Villiers, knight, deceased. Petitioner's father on 22 Dec. 1677, settled on Henry Howard, Esq. (now E. Suffolk), George, V. Grandison and Richard Butt, Esq., certain lands in Kent, and a considerable sum of money, in trust to raise portions for Petitioner's sisters. 2,000*l.*, being part of this sum, was put into the hands of Sir Stephen Fox at interest, and security taken for it in trust as aforesaid in the names of Henry Howard and V. Grandison. The latter having got the 2,000*l.* out of Sir Stephen's hands, and neglecting to pay it, a Bill in Chancery was brought against them, and the Court on 1 July 1690, ordered them to pay the sum with interest. Howard neglecting to pay his share, the Court on 13 Dec. 1690, committed him to the Fleet prison, but as he is now an Earl, no further proceedings will be allowed in Chancery without an order from their Lordships. The Standing Order of 12 Nov. 1685, refuses privilege to Peers, as trustees. Prays to be allowed to proceed against the Earl. [Read this day and referred to Committee for Privileges. (L. J., XV. 15.) The Earl declared to the Committee that he waived all privilege. Priv. Book, 11 Jan.; L. J., XV. 25.]

514. Jan. 4. L. Morley's Privilege (G. Wilson). — Petition of George Wilson, junior, of Kendal in the county of Westmoreland, Gent. In the counties of Lancaster, York and Westmoreland there are above sixty persons (among whom are Thos. Powley, a woolstapler, Ralph Thompson, Baxter Young, John Buckley, Gent., Thos. Batty, clerk, John Shepheard, Shearman Dyer, and William Kellett, innkeeper) who pretend and produce protections from L. Morley, though none of them are entered by the Clerk of the House; and under colour of these protections, several of the said persons have been lately discharged from prison, and the rest are looked upon as men not subject to the law. And in the town of Hornby, where his Lordship lives, no sheriff's officer dare attempt to arrest any inhabitant without his Lordship's licence first had, several bailiffs, who have attempted to do so, having been whipt and put in the stocks by his Lordship's order. Thomas Powley, having been arrested in last Trinity vacation at the instance of Petitioner, as clerk to his father, an attorney, at the suit of John Pickering, for 500*l.* on a writ of *capias* issuing out of the Court of Common Pleas, produced a pretended protection from L. Morley, as steward and overseer of his Lordship's collieries, in and about London and Westminster, where Powley had never in fact been employed in his Lordship's service, but was a woolstapler, living with his family at Kendal. Petitioner was advised that this protection is void, not having been entered in the Parliament Office, as required by their Lordships' order of 28 March 1690, and he therefore was induced to hold Powley to bail. After his arrest, Powley, to colour his claim of privilege, went for a few days to live with L. Morley as his gardener. Complaint being made of the alleged breach of privilege, Petitioner was sent for 200 miles off by a messenger and is now in custody of Black Rod; and L. Morley has brought an action of *scandalum magnatum* against him for 1,000*l.* damages on pretence of Petitioner's saying that his Lordship was no Peer nor qualified to grant protections. Prays to be discharged and to be heard by Counsel at the Bar. L. J., XV. 10. [The House was first moved in this matter on 15 Dec. 1691. *Thomas Powley* (sworn) stated that he had served L. Morley the greater part of half a year, and received 20*l.* a year. *George Jopson* (sworn) said he saw Wilson arrest Powley. He had known Powley several years. Powley had served L. Morley half a year. *L. Morley* stated that Powley was his menial servant. The House then ordered Wilson to be brought in custody. (L. J., 687. MS. Min.) The above Petition being read this day, *George Wilson* was called in, and said that Powley was no servant of L. Morley's. He paid his club with L. Morley. Produced a certificate of the Borough of Kendal. Has an affidavit of three persons, that Powley is not a servant of his Lordship, nor was ever reputed so to be. Is an agent for several attorneys, and had been told by them that there are 100 persons protected in the county. L. Morley came and offered to discharge this person. L. Morley asked him why he was so hot, and deponent told him it would vex any man who had been sent for 200 miles. L. Morley's town is called the Whitefriars and the men the blackguards. *L. Morley* stated that the man was his servant. His Lordship's witnesses were then called in. *George Jopson:* Heard Powley say he was [L. Morley's servant] before he was arrested. *Baxter Young:* My Lord owned him to be his servant some time before the arrest. *William Morland* [or *Morley*]: Had heard Powley acknowledge he was L. Morley's servant. The parties having withdrawn, *Question* asked by Speaker: Whether the House is not of opinion this Powley was not L. Morley's servant? *Agreed* he was not. *Proposed*, That L. Morley ask the pardon of the House.

HOUSE OF LORDS MSS.
1691–2.

The House then ordered that L. Morley should be committed to the Tower, that Wilson should be discharged, and that Jopson should be committed to the Gatehouse. (L. J., XV. 15. MS. Min.)—On 11 Jan. Jopson, on his petition (Annex (*a.*) below), was released. (L. J., XIV. 23.)—L. Morley's Petition for release was read on 15 Jan. (*ib.* 32), and his Lordship was discharged, on motion, on the 22nd, with a recommendation to the Lords of the Treasury to pay the fees of his commitment and discharge, and of Wilson's discharge, &c. out of his pension (*ib.* 44).—On 25 Jan. the House being moved on behalf of E. Thanet's Under-Sheriff to indemnify him for discharging persons protected by L. Morley, referred the matter to the L. C. Justice (*ib.* 49).—On 27 Jan. the *L. C. Justice* (being heard on motion) said: The Sheriff, upon receiving an account that he is L. Morley's servant, discharges the person. I am of opinion that the Sheriff is not indemnified, and that an action may be brought against him for an escape. *Ordered* that the business be debated on 1 Feb. (MS. Min., L. J., XV. 52.)—On 1 Feb. debate adjourned. *L. C. Baron:* The Sheriff and Under Sheriff ought to be indemnified. *Ordered* accordingly. (MS. Min., L. J., XV. 57.)]

Annexed:—

(*a.*) 11 Jan. 1691-2. Petition of George Jopson. Petitioner ignorantly misinformed their Lordships in swearing that Powley was servant to L. Morley, being illiterate and not knowing the distinction between menial and domestic servants and persons employed, like Powley, in his Lordship's business. Prays to be discharged. L. J., XV. 23.

515. Jan. 4. Dodsworth *v.* Roberts. (In Error.)—Petition of George Roberts for an early day for hearing. L. J., XV. 16.

Annexed:—

(*a.*) 9 Feb. 1691-2. Tenor of Judgment pronounced this day. L. J., XV. 68. *In extenso.*

516. Jan. 4. Westminster (Small Debts) Bill.—Commons' Engrossment of an Act for recovering of Small Debts and for relieving of Small Debtors, in Westminster and the Liberties thereof. Whereas by an Act of Parliament made in the seven and twentieth year of Queen Elizabeth, intituled An Act for the Good Government of the City and Borough of Westminster, in the County of Middlesex, it is provided and enacted, That there shall be for ever established in the said City and Borough and within the Liberties of the same for the better government of the inhabitants thereof two high burgesses and ten other burgesses and twelve assistants to the said burgesses, to be from time to time elected and constituted as in the said Act is limited and appointed. And whereas by one other Act made in the thirtieth year of the reign of the late King Charles the Second, intituled An Act for making part of the parish of St. Martin in the Fields a new parish, to be called the parish of St. Anne within the liberty of Westminster, It is enacted for the better government of the said parish, that the Dean of the Collegiate School of St. Peter in Westminster, or his successor, or the High Steward there, for the time being, or his lawful deputy, with the said burgesses and assistants or the major part of them, shall and are thereby authorised at a time in the said Act limited yearly, to elect two or more of the inhabitants of the said parish, and to be additional burgesses and assistants for the said parish. And by one other Act made in the first year of King James the Second, intituled An Act for erecting a new parish to be called the parish of St. James, within the liberty of Westminster, It is also enacted that the said Dean of St. Peter's in Westminster, or his successor, or the High Steward there for the time being, or his lawful deputy, shall yearly

nominate two sufficient persons inhabiting within the said parish, to be additional burgesses for the said parish, and together with the burgesses of the city and borough then in being, or the major part of them, nominate and elect two other able persons inhabiting in the said parish, to be assistants to the said burgesses for the purposes in the said Act appointed. And, whereas, there are many poor debtors inhabiting within the said city and borough, who for want of some such like good order and provision for their relief, as hath been by divers Acts of Parliament provided in the like cases for poor debtors within the said City of London, are subject to great oppression and other distresses. Wherefore, to the intent that some full and ample provision may be made for the relief of such poor debtors, Be it enacted by the King and Queen's most Excellent Majesties, etc., That the said Dean of Westminster and the High Steward and his Deputy and the two chief burgesses and other the burgesses of the said city and borough of Westminster and the liberty thereof, appointed or to be appointed by virtue of the said recited Acts, or any twelve of them (whereof the said Dean and High Steward, or his deputy, or one of the two chief burgesses to be one, from time to time for ever to be appointed during their office) shall and are hereby authorized and required, monthly to assign six of the said burgesses and six of the assistants of the burgesses of the said city and borough to be Commissioners of a Court of Requests, and they or any three or more of them so assigned, shall meet and sit once or oftener in every week, at nine of the clock in the morning, in the Town Court House at Westminster, or in some other convenient place, there to hear and determine all matters brought before them between party and party, as herein and hereby it is directed and appointed, and from time to time to appoint some fit and able person to be Registrar of the said Court, and some such other person to be a messenger or beadle, of the same, and to hold the first meeting on the first or second Monday of the month which shall happen after the first of the four usual Feasts, videlicet, the Feast of the Annunciation of the Virgin Mary, the Nativity of Saint John the Baptist, Saint Michael the Archangel, and the birth of Our Lord God after the Royal Assent given to this Act.

And be it further enacted, That every person and persons inhabiting or that shall inhabit within the said city and borough, or the liberties thereof, being a tradesman, victualler, or labouring man, or the widow of such which now have, or hereafter shall have, any debt or debts owing to him, her, or them, not amounting to forty shillings by any person or persons being a victualler, tradesman, or labouring man, inhabiting or that shall inhabit within the said city and borough and the liberties thereof, shall or may cause such debtor or debtors to be warned or summoned by the beadle or Officer of the said Courts of Requests holden in the place aforesaid. And that the said Commissioners, or any three or more of them shall have full power and authority by virtue of this Act from time to time to set down such order or orders between such party or parties, plaintiffs, and his, her, or their debtor or debtors, defendants, touching such debts, not amounting to the value of forty shillings, in question before them, as they shall find to stand with equity and good conscience. All such their order or orders to be registered in a book, in like manner as they are or have been accustomed to be registered in the Court of Requests, held in the Guildhall of the City of London. And as well the party plaintiff and debtor or defendant shall, and is hereby required to observe, perform and keep the same in all points. And that for the more due proceeding herein, It shall be lawful for the same Commissioners, or any three or more of them, to minister an oath to the plaintiff or defendant, and also to such witnesses as shall be produced on

HOUSE OF LORDS MSS.
1691–2.

each party, if the same Commissioners, or any three or more of them, shall so think meet.

And be it further enacted by the authority aforesaid, That if in any action of debt, or action upon the case upon an assumpsit for the recovery of any debt to be sued or prosecuted against any person or persons aforesaid in any of their Majesty's Courts at Westminster, or elsewhere out of the said Court of Requests, it shall appear to the Judges of the Court where such action shall be sued or prosecuted that the debt to be recovered by the plaintiff in such action doth not amount to the sum of forty shillings, and the defendant in such action shall duly prove either by sufficient testimony, or by his, her, or their own oath to be allowed by any the judge or judges of the said Court where such action shall depend, that at the time of the commencing of such action such defendant or defendants was or were inhabiting and residing in the city or borough of Westminster or the liberties thereof as aforesaid, that in such case the said judge or judges shall not allow to the said plaintiff or plaintiffs any costs of suit, but shall award that the same plaintiff or plaintiffs shall pay so much ordinary costs to the party defendant as the said defendant shall justly prove before the said judge or judges it hath truly cost him, her or them in defence of the said suit. And be it enacted, that if any such plaintiff or creditor, defendant or debtor, after warning given him, her or them in manner and form before in this Act mentioned by the said Officer of the said Court of Requests, shall without some just or reasonable cause of excuse, refuse to appear in the said Court before the said Commissioners, or shall not perform such order as the said Commissioners or any three or more of them shall set down, for or concerning such debts as aforesaid, That then it shall be lawful for the said Officer of the said Court, or any of the Constables of the said city or borough of Westminster or the liberties thereof, by order of the said Commissioners or any three or more of them, by warrant under their hands and seals, to commit such party or parties to prison in the common gaol there, to remain until he, she, or they shall perform the order of the said Commissioners in that behalf.

Provided always and be it enacted, that the like fees for the order, commons, and other process of this Court shall be paid to the officers and ministers thereof as are paid to the like officers of the Court of Conscience called the Court of Requests sitting in the Guildhall in London and no other.

Provided also that this Act, or anything therein contained, shall not extend to any debt for any rent upon any lease of lands or tenement, or any other real contracts, nor to any other debts that shall arise by reason of any cause concerning testaments or matrimony, or anything concerning or properly belonging to the Ecclesiastical Courts, albeit the same shall be under forty shillings, anything herein contained to the contrary in any wise notwithstanding.

Parchment Collection. [Brought from the Commons this day (L. J., XV. 14.) The proceedings in Select Committee (M. Halifax in the Chair) were as follows:—17 Feb. *Ordered* that the L. Steward, the V. Villiers, Sir James Butler and all other persons concerned may be heard to-morrow (Com. Book.)—18 Feb. *V. Villiers* acquaints the Committee that the Counsel he was to have had are engaged in Chancery, so he has none here. He desires that the King's Counsel may be heard at the Bar before the third reading. Order of 5 Jan. for hearing Counsel before the second reading (L. J., XV. 18) is read. *Ordered* to report that V. Villiers expecting to have been heard according to the said Order before the second reading against the body of the Bill, and

the Bill having been read the second time in his absence, before his Lordship was heard, and it not being in the Committee's power to hear him against the body of the Bill, their Lordships desire to know the pleasure of the House therein. (Com. Book.) The House, on this report, ordered Counsel for and against the Bill, to be heard on 20 Feb. (MS. Min., L. J., XV. 82.) Nothing further appears till 23 Feb., when the House ordered Counsel to be heard the next day. (L. J., XV. 89. No entry in MS. Min.) The Bill dropped with the Session.]

517. Jan. 5. Newton's Estate Act.—Amended draft of an Act for settling the Manor and Lordship of King's Bromley and other the messuages, lands, tenements and hereditaments of Barbara Newton, widow, Relict of Samuel Newton, late of the Island of Barbadoes in America, Esq., deceased, and John Newton, Esq., son and heir of the said Samuel by the said Barbara. The Lords' Amendments (Com. Book 13 Jan.) are drafting ones. No Amendments in the Commons. [Read 1ª this day: Royal Assent 24 Feb. (L. J., XV. 18, 93.) 3 and 4. W. & M. c. 42 in Long Calendar.]

518. Jan. 9. Tooke *v.* Sir R. Atkyns.—Petition and Appeal of Thomas Tooke, Esq. Sir Robt. Atkyns, Knight of the Bath, L. Chief Baron of the Court of Exchequer, as guardian of Petitioner and executor to his great-grandfather, received large sums during Petitioner's minority, and Petitioner having brought a Bill in Chancery against him and Petitioner's mother Mrs. Elizabeth Reynell and others, the Court, on 19 April 1687, decreed an account.* Sir Robert proposed at the hearing to refer the matter as to himself to the Lord Commissioner (then Mr. Serjeant) Rawlinson, whose decision should be binding, and Petitioner consented. The referee awarded Sir Robert to pay 600*l.* in satisfaction of all demands. Sir Robert, after informing the Court that he was content to comply with the award, delayed payment, and imposed certain articles on Petitioner, then in great distress and a prisoner in the Fleet, binding them to assist each other to recover 1,800*l.* from Petitioner's mother, viz., 1,200*l.* for Petitioner and 600*l.* for Sir Robert, who was to pay his share of the costs of the recovery, and Petitioner was not to release his mother, though the award itself contained no such direction. Petitioner spent above 200*l.* in prosecuting his mother, and she above 400*l.* in her defence, and Sir Robert, whom she called as a witness, testified his belief that she had spent much more for Petitioner's education and maintenance than ever she had received of his estate, all which Sir Robert must have known, when he imposed the articles on Petitioner. Sir Robert afterwards, having lent Petitioner 220*l.* on a mortgage of the reversion of some houses in London, included the 600*l.* awarded money in the mortgage, making it one for 820*l.*, and then brought a Bill in Exchequer to compel Petitioner to pay the 820*l.* or foreclose, and the Court on 2 July 1691 decreed in his favour. Appeals against this decree. *Signed* by Appellant; *Countersigned* by Wi. Williams and John Squibb. L. J., XV. 22. [At the hearing of this Appeal, M. Halifax was chosen Speaker *pro tem.*, in place of the Respondent (*ib.* 71, 77, 92). On 11 Feb. Counsel called in. *Sir W. Williams* (for Appellant): We hope this Decree shall be corrected. It may stand good for the 200*l.*, but not for the rest. *Mr. Finch* (for Appellant): The money lent was but 220*l.* Sir Robert Atkyns was charged with this. The Court of Chancery made a decree that they should all go to an account. The L. Chief Baron referred his part to Serjeant Rawlinson. Upon that reference, proposed by Sir Robert, Counsel were heard, and it was awarded that Sir Robert should pay Mr. Tooke

* 1 Vernon 451.

HOUSE OF LORDS MSS.

1691–2.

600*l.* There was a confirmation of this award. Upon Sir Robert's lending the 200*l.*, there were new Articles agreed on, that he should prosecute Mrs. Reynell. Sir Robert was examined as a witness for Mrs. Reynell, and said that he verily believed she had spent more on bringing him up than ever she had out of the estate. We have a bundle of receipts under Sir Robert's hand. He received the rents and profits of the estate. The money was paid, pursuant to the award, but Tooke was in the Fleet when he got the Articles and was in hope to get some of it again. [Counsel propose to read an evidence, and the other side oppose it, not having been read below.] If we do not satisfy your Lordships that this was an unjust award, there is no colour for this decree. The Articles are read. *Mr. Dodd* (for Respondent): Reads the words of the decree. Upon this decree Sir Robert thought himself safe. I agree he referred it to Serjeant Rawlinson. Mr. Tooke, when he saw Sir Robert would controvert this award, said "I believe your Lordship never received one penny." Mr. Tooke proposed the security, if Sir Robert would advance the money. This we have in proof. *Mr. Finch* was heard in reply, and proposed to read Sir Robert's receipts for moneys received out of the estate. Counsel withdrew on the point, whether they shall be read or not, the same not having been read or offered in the Exchequer. *Proposed*, to ask the Barons of the Exchequer whether the award was before them? *Turton, B.:* The proceedings in one Court ought not to be read in another Court, without an order. The award was before us and was debated some time before us. Then, after debate, *Question* put, Whether the Counsel for the Appellant shall be permitted to read the Receipts offered by them, and said to be subscribed by the L. Chief Baron? *Previous Question* put and resolved in the *Negative.* Counsel called in and asked what they had to say more. *Mr. Finch* said they had no more, and withdrew. The Speaker then reported, and, after debate, further debate adjourned to the 15th inst. (MS. Min.)—On 13 Feb. the House ordered the L. Commissioner Rawlinson to attend on the 15th (L. J., XV. 75), and also, at the desire of Sir Robert Atkyns, that the Receipts offered to be read, should be then read. (MS. Min.)—On 15 Feb. the House went on with the debate about the points of fact, not agreed how it was stated by the Counsel, and concerning the L. Commissioner Rawlinson's being called in, pursuant to the order, to give an account of the award made by him, and after some time spent therein, it was *Resolved* by 29 votes to 19 not to call him in. Counsel were then called in, one on each side. *Mr. Finch:* Mr. Tooke being in the Fleet, Sir Robert lends the money, and before he lets him have it, makes articles for Mr. Tooke to sign. The young man must make a woman reimburse money again, which she could not do, being married. Either the mother received it or not, so either way there was nothing to be had. Sir Robert takes a security from the young man. *Mr. Dodd:* The question is whether we shall have the 820*l.* or lose the 600*l.* It is insinuated as if Mr. Tooke were a weak man. He was not. He was not in prison at that time at Sir Robert's suit. Mr. Tooke said he never believed Sir Robert received any of the 600*l.* He paid the 600*l.* upon articles. I cannot say there is proof Mr. Tooke looked into the particulars. *Mr. Finch* was heard in reply. Counsel withdrew. *Lechmere, B.* was heard: It was to us an ordinary case upon Bill and Answer. *Turton, B.* was heard. The L. C. Baron insisted he was injured by the award. Mr. Tooke by Articles agreed the 600*l.* should be paid. Nothing appeared before us upon what ground Serjeant Rawlinson made his award. After debate, the House ordered that precedents should be searched, of affirming part of a decree and reversing the rest; and if,

upon new evidence being offered, a new trial below has not been ordered, and of a decree having been affirmed and a release set aside. (L. J., XV. 77, MS. Min.)—On 19 Feb. *Sir Robert Atkyns* was heard to speak himself out of his place. He proposed to leave it to a trial at law, and some proposals were made to him.* He then withdrew, and Mr. Halifax was chosen Speaker *pro. tem.* After some time spent in debate, it was *Moved* That Mr. Tooke's Counsel be called in and asked whether he will accept of what the L. C. Baron offers.† *Ordered*, That the debate on this matter be adjourned till to-morrow. (L. J., XV. 85. MS. Min.)—On 20 Feb. the debate was further adjourned till the 23rd (L. J., XV. 86), on which day it was again adjourned till the 24th (*ib.* 89).—On 24 Feb., the debate being resumed, the proposals on either side were read. The cause of Zouch and his wife, 22 Nov. 1670,‡ and several other precedents were read, wherein the Lords have done more than affirm or reverse upon hearing Counsel upon Appeals. After debate, the *Question* was put, Whether this Cause shall not be referred to the Exchequer in order to be heard upon all the proofs that were produced or used in Chancery? Resolved in the *Affirmative.* Contents 22; Not-Contents 17. Tellers, E. Stamford and L. Cornwallis. (L. J., XV. 92. MS. Min.) The Appeal was ultimately dismissed, without further argument, on 14 March 1692–3. (L. J., XV. 287.)]

Annexed:—

(*a.*) 16 Jan. 1691–2. Answer of Sir Robert Atkyns. Respondent was not sole executor to Appellant's great-grandfather, Thomas Tooke, Esq., but co-executor with his brother Sir Edward Atkyns, and one Stephen Ewer, deceased. Thomas Tooke died about 20 years since, and Respondent living at a distance and having no leisure, owing to his duties as a judge, left the receipt of his estate to his co-executors, and Ewer, a near neighbour and attorney, who survived the testator about six years, exhibited his account into Chancery, which has yet to be produced. Respondent was never guardian to Appellant, nor did he ever receive a penny as such, but Appellant's mother, now Elizabeth Reynell, widow, was his guardian till he was 14; only Respondent allowed her to employ one Thomas Pocock, a very honest man and receiver of Respondent's own money and living among the tenants, to receive Appellant's rents for her, and sometimes received some for her himself, but never without paying them at once to her, and never since Appellant was 14, which was 15 years ago. The 1,800*l.* which Appellant charged Respondent and Sir Edward with having received, among other sums, as a portion with Appellant's wife, on his marriage with Sir Richard Atkyns' daughter, was not a portion at all, but was given by Sir Richard in trust for Appellant's mother, she being destitute of maintenance, and Respondent and one Brighouse were made trustees, to prevent her then husband, Carew Reynell, from touching the money. The L. Chancellor Jeffreys, on 19 April, 3 Jac. II., decreed an account by such of the defendants as had received the money in dispute, including the 1,800*l.* Respondent offered the reference merely to save expense and time, and named Serjeant Rawlinson, his principal lawyer and chiefly employed by him in that cause. He never informed the Court he was content to comply with the award, except on terms agreed

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* Annex (*c*).

† This motion is cancelled in MS. Min.

‡ *Zouch* v. *Naylor*, L. J., XII. 370.

HOUSE OF LORDS MSS.
1691–2.

between them, being extremely dissatisfied with it, and resolved to stand it out to the utmost. Appellant's imprisonment in the Fleet was not due to any act of Respondent, and so far from being imposed on, he declared it to be unjust that Respondent should pay any part of the 1,800*l.*, never having received any of it, and voluntarily came to articles, in Respondent's absence, that Respondent should pay him the 600*l.*, and be reimbursed out of the moneys then due to Appellant from his mother, whom Appellant covenanted not to release without Respondent's consent, and gave Respondent a bond of 1,000*l.* to perform the articles, which were confirmed by the Court of Chancery. Soon after, Appellant, being wheedled into it by his mother, gave her a general release, without informing Respondent, although the Master had reported nearly 4,000*l.* due from her, and thus forfeited the bond and was in contempt of court. It is Appellant's mother who now prosecutes this Appeal, in hope to gain her son's estate for herself and her children by her second husband, Appellant having no children, or brother or sister of the whole blood. Appellant being sensible of this wrong, and having borrowed 220*l.* more of Respondent, freely gave Respondent a new security by mortgage of certain houses in Castle Yard, Holborn, for the two sums; but the houses stand charged, prior to this mortgage, with 200*l.* a year separate maintenance to Appellant's wife, which is to be made up to 300*l.* a year if she survive him, and she is now 30 years old, and the whole revenue does not arise to pay her the 200*l.* a year by much, besides which the reversion is much encumbered. Respondent not being paid a penny to this day, and his security being so small, brought his Bill in the Exchequer, having the privilege, as a Judge of that Court, of suing and being sued there only, and obtained the decree complained of, but he neither sat nor acted as a judge at the hearing, but sate uncovered among the Counsel, and left his case for Counsel to manage. Prays that the Appeal may be dismissed with costs. *Signed* by R. Atkyns; *Countersigned* by P. Davies. *Endorsed* as brought in this day.

(*b.*) 22 Jan. 1691–2. Petition of Appellant that Respondent may be ordered to produce at the hearing certain documents, including the articles of agreement relating to the 600*l.*, and a deed relating to 1,800*l.* made by Sir Richard Atkyns; and that Petitioner may have a copy of the Articles and give a third person security to prosecute the Appeal. *Endorsed* as read this day. L. J., XV. 44.

(*c.*) 19 Feb. 1691–2. Paper endorsed "Proposal offered between Thomas Tooke and the L. C. Baron Atkyns," as follows: "To waive the award and set aside the release given to him, pursuant to it. To waive the privilege and give security to pay what shall be owing upon the account, and to proceed to take the account before the Master, pursuant to the Decree in Chancery." *Noted* in the Clerk's hand, is the following: "I would go to a trial at Common Law in an action of account against the Chief Baron, as guardian to the Appellant, to be tried the next term in the King's Bench or Common Pleas, the Appellant first paying the 820*l.* and interest. Then I am willing to waive my privilege and set aside the release and the award."* [Offered this day, and read on 24 Feb. MS. Min. of date.]

* *See* notes to first Paper as to what was said by Sir Robert this day.

ng's Library

519. Jan. 11. Vaughan's Estate Act.—Draft of an Act for the settling of certain messuages, mills, lands and tenements in the county of Merioneth upon certain Trustees, to be sold or mortgaged towards the payment of the debts of William Vaughan and Jenkin Vaughan, Esqrs., deceased. [Read 1ª this day; Royal Assent 24 Feb. (L. J., XV. 24, 93.) 3–4 W. & M. c. 28 in Long Calendar.]

Annexed:—

(*a.*) 22 Jan. 1691–2. Consent to the passing of the Bill, of John, Hugh, Griffith and Richard Vaughan, uncles of Margaret Vaughan, spinster, an infant, daughter and heir of Jenkin Vaughan, being her next heirs, also of Anne Vaughan (who signs with her mark), her grandmother, under whose custody Margaret is, several of the sureties for Margaret's father and grandfather being now in prison for their debts, and their estates and families likely to be ruined, as will also the whole of Margaret's property, unless the Act pass. *Dated* 25 Nov. 3 W. & M. *Attested* by Screven Hughes, David Owen, Eaun Hugh and Elizabeth Vaughan. [Read in Committee this day. Com. Book.]

520. Jan. 11. Sadleir's Estate Act.—Amended draft of an Act to enable Sir Edwin Sadleir, Bart., to sell lands to pay his debts. The two amendments of the Lords (Com. Book, 23 Jan.) are purely clerical. [Read 1ª this day; Royal Assent 24 Feb. (L. J., XV. 24, 93). 3–4 W. & M. c. 24 in Long Calendar. Com. Book, Jan. 20, 23.]

521. Jan. 11. V. Villiers' Estate Act.—Amended draft of an Act for the vesting several manors, lands and rents in the counties of Lincoln, Berks and Devon in Trustees, to be sold for the buying other manors and lands, to be settled for the same or the like uses as those to be sold are now settled. The Lords' Amendments (Com. Book, 14 Jan.) are to alter the sum of 5,400*l.* to 6,300*l.* throughout the Act. The Commons' Amendment (C. J., X. 656) was a drafting one. [Read 1ª this day; Royal Assent 24 Feb.* (L. J., XV. 24, 92.) 3–4 W. & M. c. 16 in Long Calendar.]

Annexed:—

(*a.*) 15 Jan. 1691–2. Lords' Amendments to the Bill. [Made in Committee 14 Jan., and reported this day. (Com. Book; L. J., XV. 31.)]

522. Jan. 11. Beaw *v.* Jones.—Petition and Appeal of William Beaw, LL.B. On the death of Sir Richard Lloyd, Knt., late Chancellor of the diocese of Llandaff, in 1686, the then Bishop granted the office to Dr Stafford, in trust for Appellant, who, on reaching the age required by the Canon, received on 14 May 1687 a new patent for himself, the former one being surrendered with Stafford's consent. The Respondent, Dr. John Jones, claimed the office as the survivor of Lloyd, under a grant made on 7 Sept. 1671 by Francis Davies, the then Bishop of Llandaff, and applied to William Beaw, Bishop of Llandaff, to be admitted, but the latter refused, on the ground that the patent of 1671 was void, being made to two persons, and that Lloyd had surrendered it and taken a new one for his own life only. Respondent urged that he had never joined in the surrender, and in 1689 brought a Bill in Chancery against William Beaw, Bishop of Llandaff, William Lloyd, his predecessor, afterwards Bishop of Norwich, Appellant, and others, for a discovery of the surrender and an account of profits since Sir Richard Lloyd's death. The Lords Commissioners on 6 Feb. 1691 directed a trial in the Court of King's

* MS. Min. of 23 Feb. has the following entry:—L. Villiers' Bill, Westmr. to-morrow.

HOUSE OF LORDS MSS.

1691–2.

Bench, at which Appellant was ordered to make certain admissions, and a verdict accordingly was found against him.* The cause coming on to be heard on the equity reserved on 20 Nov. 1691, the Lords Commissioners refused to adjourn it for the attendance of Appellant's Counsel, who had gone away, not expecting it to come on that day, being the 26th cause in the paper, but decreed Petitioner to deliver possession of the office to Respondent, who obtained a perpetual injunction to quiet him and an account of all profits since Lloyd's death. The Court has since refused a rehearing. Prays that the Order and Decree may be reversed and Respondent ordered to answer. *Signed* by Appellant. The counter-signatures of W. Thomson and Edw. Ward are copied on the petition. L. J., XV. 23. [The Appeal was heard and dismissed with 40*l.* costs on 18 Feb. *Sir Francis Winnington* and *Mr. Grove* appeared for Appellant, and *Serjeant Tremaine* and *Mr. Finch* for Respondent. L. J., XV. 82. MS. Min.]

Annexed:—

(*a.*) 27 Jan. 1691–2. Answer of Dr. John Jones. The office was granted in September 1671 to Sir Richard Lloyd and Respondent jointly and severally and to the longest liver of them. Dr. Francis Davies, the Bishop who granted it, was succeeded in the bishopric, on his death in 1674, by Dr. William Lloyd, who on his removal to Norwich was succeeded by Dr. William Beaw, the present Bishop of Llandaff. The last-named constituted Commissioners, on Lloyd's death, to execute the offices of Chancellor and Vicar-General, without the privity or consent of Respondent, and afterwards made a grant to Stafford and Appellant of the same kind as that which he refused to recognise in the case of Lloyd and Respondent, and as indeed is usual and has been customarily granted time out of mind both in that and in several other places in England. Dr. Lloyd never surrendered the Patent with the privity or consent of Respondent, nor did Respondent ever join in any surrender. The decree was made after due notice to Appellant, without the least surprise, and after hearing counsel on both sides. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tremaine. *Endorsed* as brought in this day.

(*b.*) 27 Jan. 1691–2. Petition of Respondent for an early day for hearing. *Unsigned.* L. J., XV. 51.

(*c.*) 19 Nov. 1692. Petition of Appellant. The costs, amounting to 40*l.*, adjudged to be paid to Respondent, in respect of the Appeal, are more than Respondent could reasonably expend, having had only two counsel and one solicitor, who attended their Lordships but one day of hearing, and being at no charges of a journey to attend the hearing, as he lived in the City of London. Prays that the costs, which will ruin Respondent and his family, may be remitted. *Endorsed* as read this day and rejected. L. J., XV. 116.

(*d.*) 9 Feb. 1692–3. Petition of Respondent. Their Lordships dismissed Beaw's Appeal as frivolous, with exemplary costs, but Sir Adam Ottley, Knt., the Master in Chancery who was to tax Petitioner's costs, and Petitioner, having knowledge that Beaw is protected as Secretary to his father, the Lord Bishop of Llandaff, are unwilling to proceed in the matter without

* 4 Mod. Rep. 16.

leave of the House. The Protection, which was struck out of the Book, has been, by some means or other, entered therein again, whereby their Lordships' Judgment is likely to be frustrated. Prays that the Protection may be discharged. [Read this day and referred to the Committee for Privileges. L. J., XV. 222. No entry of proceedings in Priv. Book.]

(*e.*) 14 Feb. 1692–3. Petition of Same. Petitioner's last Petition was referred to the Committee for Privileges, who were to meet on the 13th inst., but there was not a sufficient number of Peers present on that day to make a Committee. Prays to be heard at the Bar. *Endorsed* as read this day. Nothing done on it. MS. Min. No entry in L. J.

523. Jan. 11. Oxford University (Confirmation of Charters, &c.) Additional Bill.—Draft of an Additional Act for the confirmation of the Charters, Liberties and Privileges of the University of Oxford. Same as the Bill of 10 Nov. 1690, relating to the two Universities (No. **321** in last Calendar), with the omission here of the portions relating to Cambridge,* and with verbal alterations consequent thereon. [Read 1ª this day. (L. J., XV. 24.) No further proceedings.]

524. Jan. 12. D. Norfolk's Divorce Bill—Draft of an Act to dissolve the marriage of Henry, Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordant, and to enable the said Duke to marry again. "Forasmuch as Henry, Duke of Norfolk and Earl Marshal of England, having been married to the Lady Mary Mordant, hath made full proof that his said wife is guilty of and hath committed adultery on her part; and forasmuch as the said Henry, Duke of Norfolk hath no issue, nor can have any probable expectation of posterity to succeed him in his honours, dignities, and estate, unless the said marriage be declared void by authority of Parliament, and the said Duke be enabled to marry any other woman, the King and Queen's most Excellent Majesties, upon the humble Petition of the said Henry, Duke of Norfolk, having taken the premises into their Royal consideration, for divers weighty reasons are pleased that it be enacted, and be it enacted by the King and Queen's most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said marriage between the said Henry, Duke of Norfolk, and the said Lady Mary his wife shall from henceforth be null and void, and is by authority of this present Parliament declared, adjudged and enacted to be null and void to all intents, constructions and purposes whatsoever, And that it shall and may be lawful to and for the said Henry, Duke of Norfolk at any time or times hereafter to contract matrimony." The rest of the Bill is identical with the Act of 1700 (12 Will. III. c. 26. in Long Calendar),† except in omitting here the words ("so far as concerns the said Lady Mary or any issue of her body, or any interest for her or them") and the whole of the last section of the Act relating to the 10,000*l.* marriage portion &c. [Read 1ª this day. (L. J., XV. 25.) The first reference to this Bill occurs on 7 Jan., when the House gave leave to E. Strafford to "open the Bill" the next day. (L. J., XV. 20.) The subsequent proceedings are thus recorded:—

Jan. 8. Order of yesterday read. *E. Strafford* opened the Bill. *D. Norfolk* was heard as to the transaction of the business. A Petition of Mary, Duchess of Norfolk was read.‡ After debate, *Question:*

* These were transferred to a similar but separate Bill relating to Cambridge. *See* No. **494** in last Calendar.

† The Act is printed *in extenso* in Howell's State Trials, XIII., 1283, sqq.

‡ Annex (*a.*).

HOUSE OF LORDS MSS.

1691–2.

Whether Counsel shall be heard on both sides on the 11th on the Bill offered to this House? Resolved in the *Negative*. Contents (no proxies) 36; Not-Contents (including 5 proxies) 38. Tellers, E. Stamford and L. Chandos. *Ordered* that the Duchess have notice of the Bill, and that both parties be heard by Counsel on the 12th. (MS. Min.; L. J., XV. 21.)

Jan. 12. Counsel called in. *Sir Thomas Powys* (for the Duchess): I think there is no legal evidence yet before your Lordships. His Grace has been provoked by her suing for alimony.* Cites the Marquess of Northampton's Act† as being fully against this case, it reciting the sentence of the Ecclesiastical Court. Cites cases of Mr. Lewkner,‡ and of Mrs. Wharton and Mr. Campbell.§ The Duchess has witnesses beyond sea, whom she cannot bring hither. *Mr. Trevor* (for the Duke): I will answer the objections made by the other side. They say it was six years since the Duke was provoked. Adultery is the breach of the conjugal bond; that, I think, will not be questioned. *Sir W. Williams* (for the Duchess): This is the first precedent. I hope this Bill will never be received for an example to England. *Sir Cresswell Levinz* (heard to reply to Sir W. Williams): We can have no relief anywhere but here. Counsel withdrew. After long debate: *Question*, Whether the Bill shall be received? Resolved in the *Affirmative*. Contents, 51 (including 4 Proxies); Not-Contents, 43 (including 5 Proxies).‖ Tellers, E. Monmouth and E. Scarborough. Bill read 1ª (MS. Min.; L. J., XV. 25.)¶

Jan. 13. Petition of the Duchess read. *Ordered* to hear the Civilians, Sir Richard Raynes, Sir Charles Hedges and Dr. Oxenden the next day, and then consider when the Bill should be read 2ª. (MS. Min.; L. J., XV. 27.)

Jan. 14. Civilians called in, and informed of the Bill and of the Duchess's Petition, and desired to state the method. *Sir Richard Raynes:* The Plaintiff brings in a Libel setting forth the full fact, with all the circumstances of adultery. The other party is to answer the circumstances. Then the Plaintiff is to produce witnesses to prove the Libel, and the adverse party has a note of the witnesses' names. The Defendant has time to cross-examine. If the witnesses are obscure, then time is given for drawing Interrogatories. The witnesses are to be produced before the adverse party. The party never has more than three weeks to prove the Libel. If it be a matrimonial case, the Judge is to examine by himself, and there he can view the face of the witnesses. When these depositions are ended, then she has the like time for examining her witnesses. Then by this time it is probable the cause is full ready and founded. Then comes the publication of the witnesses. Then the pleading comes of exceptions to these witnesses, and they are kept private for fear of subornation. Now this may be effected in two or three terms at most; if beyond, say then, in respect of wind and weather, a longer time. Sometimes such Commissions are asked out of delay. *Sir Charles Hedges:* Speaks to the charge and the witnesses' names. The charge is always given. The witnesses' names are not given until sworn and publication. The charge must be certain, as to time and place. If a Commission be asked beyond sea, then the Court judges

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* *See* Howell's State Trials, XI. 1144–5 (1688).

† 5–6 Edw. VI. c. 30. Repealed in 1553 by 1 Mary, 30.

‡ Lewkner's Illegitimation Act, 2 W. & M. c. 6.

§ Wharton's Divorce Act, 2–3 W. & M. c. 17.

‖ Luttrell, who speaks of a "great debate" on this occasion, gives the majority wrongly as 6. (Diary, 12 Jan.)

¶ Annex (*b.*).

and an oath is given to prove the Commission necessary. They withdraw. *Ordered*, that the Duke bring his charge against the Duchess, and particularly as to person, time and place, on the 16th inst.* (MS. Min.; L. J., XV. 30.)

Jan. 16. *D. Norfolk* delivers his Charge.† *Ordered*, that the Duchess have a copy, and attend in person or by someone on her behalf on the 18th to receive it. (MS. Min., L. J., XV. 34.) *Sir C. Hedges* appears to have delivered in this day a Statement of the method of proceeding.‡

Jan. 18. *Sir Thomas Pinfold* appears for the Duchess, and is given a copy of the Charge, which the Duchess is ordered to answer the next day, when Sir R. Raynes and Sir C. Hedges are to attend. (MS. Min.; L. J., XV. 35.)

Jan. 19. *Sir Thomas Pinfold* was called in and delivered the Duchess's Answer,§ objecting to the Charge as too general. The Answer read. *Sir Charles Hedges* being called in, the Charge and Answer are read again, and he is asked whether they are according to the forms of their Court. He says: This Charge is not so particular as is usual. As to ("June and December") it is particular enough; but as to ("several times since") it is too large. I do not conceive she is to give any Answer but Guilty or Not Guilty. After debate, *Agreed* that the Charge is defective, and that the Duke be at liberty to amend it. [Later on in the sitting *D. Norfolk* brings in his amended Charge.‖] *Sir Thomas Pinfold* being called for, but not appearing, *Ordered* (after affirming the Previous Question) that a copy of the amended Charge be sent to the Duchess, and that she put in her Answer to it the next day. (MS. Min.; L. J., XV. 37.)

Jan. 20. A Petition of the Duchess¶ being read, she is ordered peremptorily to answer the next day. (MS. Min.; L. J., XV. 40.)

Jan 21. House informed that the Duchess is at the door. *Agreed*, that a chair be set for her at the Table. *Proposed*, that the Speaker put off his hat when she comes in, and then sit down and speak to her with his hat on. After debate: *Question*, Whether the Speaker shall stand with his hat off, when speaking to the Duchess? Resolved in the *Negative*. Contents, 39 (including 3 Proxies); Not-Contents, 39 (including 6 Proxies). Tellers, E. Thanet and L. Chandos.** *The Duchess* is then called in, and the Order for her to answer this day being read to her, she delivers her Answer,†† saying that it was all she could prepare in so short a time. The Answer being read, she withdraws. *Ordered* that Sir Richard Haynes and Sir Charles Hedges attend the next day. After debate: on *Question*, Whether the Duchess or her Proctor shall be summoned to attend the next day? *Previous Question* put, Whether this Question shall be now put? Resolved in the *Negative*. Contents, 32 (including 2 Proxies); Not-Contents, 32 (including 3 Proxies).‡‡ (MS. Min.; L. J., XV. 41).

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* The original proposal was "when he shall think fit." These words are struck out in MS. Min.

† Annex (*d.*). Luttrell, under date, adds "together with a list of witnesses."

‡ *See* endorsement to Annex (*c.*).

§ Annex (*e.*).

‖ Annex (*f.*).

¶ Annex (*g.*).

** The House then ordered that the same rule should be observed in the case of the Speaker addressing any Lord or other person.

†† Annex (*h.*).

‡‡ A cancelled entry here adds, "The Duke of Norfolk was asked when he could be ready to make good the charge against her." Luttrell, under date, states wrongly as follows: "A debate on the Duchess's Answer put in, whether she should be summoned to attend to-morrow and the Doctors of the Civil Law; on which the House divided, and carried it by 1 against; so put off till Saturday."

HOUSE OF LORDS MSS. 1691–2.

Jan. 22. The Civilians called in. *Sir Charles Hedges* has the Duke's Charge read to him, and is asked whether it is a perfect Charge according to the method of the Court. He says: We should not draw it so. It is not according to our form. Q. Whether the Charge would be admitted in their Court? A. I conceive it would not, it being deficient in form. He withdraws. After debate, he is recalled, and asked, whether upon observing the Answer, he observed any other defect in the Duke's Charge? A. If she makes exceptions, it is nothing to it. She says she is Not Guilty, and denies it. That is sufficient. Q. Whether it amounts to a *litis contestatio*? A. He thinks it is. He withdraws. On Question, *Resolved* that the Duke shall produce his witnesses to-morrow, and that the Duchess attend in person or by her Proctor. *Ordered*, that both parties have orders for such witnesses as they desire.* (MS. Min.; L. J., XV. 44.)

Jan. 23. *Moved*, that the Duke's witnesses be called in. A debate arising as to the form of the Oath, a form is finally agreed to. *Mr. Franklyn*, the Duchess's Proctor, is called in, and offers a Protestation in Latin,† which is read. *Agreed* that the questions shall be asked the witnesses as desired. Then the witness being examined by him to the said questions, *Margaret Ellwood* is sworn. *Mr. Franklyn* offers another Protestation in Latin,‡ which he reads. He withdraws, and being recalled, is asked whether the rest of the witnesses might not be sworn without prejudice to the Protestation. He says: You may swear them, reserving the right of the Protestation to me. *The Speaker* told him that what he brought in should be in English. The witnesses§ having been examined, *Mr. Franklyn* prays for a copy of their evidence, as taken by the Clerk. He withdraws. *Moved* that the papers of the Protestation be translated into English. *Question*, Whether the Protestation shall be translated into English by Mr. Franklyn before any further step be made in the business. It was resolved in the *Negative*. [The Previous Question was put.] || Contents, 25; Proxies, 2; Not-Contents, 23; Proxies, 4. Tellers: L. Howard and L. Chandos. *Semper præsumitur pro negante.* House *moved*, that Mr. Franklyn do translate the last Protestation presently. *Ordered* accordingly. The Protestation, being translated, is read. *Ordered*, That Mr. Franklyn have a copy of the evidence given at the Bar, and that the Duke's witnesses be heard on the 26th and both parties to attend. (MS. Min.; L. J., XV. 46-7.)

Jan. 25. Petition of the Duchess¶ read. (MS. Min.; L. J., XV. 49.) Nothing was done on it.

Jan. 26. The D. Norfolk's witnesses attending, Counsel and Proctors for the Duke and Duchess are called in. *Sir W. Thompson* (for the Duke) states the Case. *The Duchess's Proctor* prays that the Duke's Counsel may not be present when the witnesses give their evidence. *Ordered*, that the Duke's Counsel being present shall be no prejudice to the Duchess. *The Duchess's Counsel* moves that the evidence should be in writing, and delivered to him. They withdraw. *Moved*, that the evidence be taken in writing by the Clerk, and that the Clerk read his notes to the witnesses before they go from the Bar, and if either Counsel observe anything taken short or mistaken, the Counsel may offer to have it rectified. *Agreed to*, and Counsel called in and in-

* Annex (*i.*).
† Annex (*k.*).
‡ Annex (*l.*).
§ Annexes (*n.*) and (*o.*).
|| The words in square brackets are expunged in MS. Min.
¶ Annex (*p.*).

formed accordingly. *Sir William Thompson* (for the Duke): We will call in Rowland Owen. [The following witnesses were then examined, viz.: Rowland Owen, Margaret Ellwood, Thomas Hudson, Anne Burton, Simon Verelst, and Thomas Forster.]* *Counsel* (for the Duke): We have several more circumstantial witnesses, and therefore we rest our evidence here. They withdraw. *Ordered*, that the Duchess make her defence on the 29th. *Moved*, That a woman, one of the witnesses, being (*illegible*), was called and sworn. "I went for a pint of drink last night" (*sic*). *Moved*, that Protections be given to all the witnesses. (MS. Min.; L. J., XV. 50.)

Jan. 28. Witnesses for the Duchess ordered to attend the next day.† (MS. Min.; L. J., XV. 54.)

Jan. 29. Petition of the Duchess for further time till Feb. 1 to make her defence, read.‡ Counsel called in and told what she desires. *Sir W. Williams* (for the Duchess): We looked into the evidence against her, and we have not the witnesses, and doubt not but they will be here by Monday next. *Robert Welborne* (sworn) says he was with the Counsel last night, and the Counsel agreed it was impossible for them to be ready, and that one, who is the Duchess's woman, is in Hertfordshire, and they cannot find her. The Petition accordingly granted. (MS. Min.; L. J., XV. 54.)

Feb. 1. Counsel called in. *The Proctor* (for the Duchess) moves that the Duchess having given a personal Answer, the Duke might be obliged to give an Answer in writing. He conceives the Duchess has a right to it. *Counsel* (for the Duke): Issue has been joined, and it is unusual. *Counsel* (for the Duchess): We are ready to go on with our defence as to the adultery, so it be not prejudicial to the Duchess, as to the Civilians being precluded that if since the Duke and Duchess have been reconciled since the time (*sic*). They withdraw. *Ordered*, that the Speaker tell the Counsel that they should proceed to make the defence, and that, if there is anything else, [if] they have anything to offer in point of law, they shall not be precluded. Counsel called in again and told this. *Sir W. Williams* (for the Duchess): We shall follow them in their own steps. We desire that what was taken on the Duke's behalf may be read. [The evidence of the first witness read.] We shall call witnesses to prove this fellow to be a common street porter, and that there was but one key, and that kept by a particular person. [*Frances Knight* and *Henry Reyner* were then sworn and examined, and *Rowland Owen* re-examined.]§ *Counsel* (for the D[uke]): We have other witnesses to confront Rayner. [Deposition of Margaret Ellwood, taken the other day, is read.] *Counsel* (for the Duchess): This woman was a poor, mean cobbler's wife. [The following witnesses were then sworn and examined: *Michael Haddon*, *Joyce Heath*, *Mary Trevis*, *Mary Jones*, *Anne Ross* and *Mary Ross*.]§ An expunged entry here adds "Counsel for the Duke called for Margaret Ellwood." They withdraw. *Ordered* that the further hearing of the Duchess's witness be resumed on 3 Feb. (MS. Min.; L. J., XV. 58.)

Feb. 3. *Agreed*, that when the Counsel come in, the Duke's Counsel may proceed to support his evidence, if they think fit. Counsel called in and told so. *Sir W. Williams* (for the Duchess): I humbly conceive this is very irregular, we being in our evidence. He moves that Thomas

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* Annex (*q.*). "This day the King went *incognito* to the Lords' House, to hear the Duke of Norfolk's witnesses examined." Luttrell, 26 Jan.

† Annex (*s.*).

‡ Annex (*t.*).

§ Annex (*q.*).

HOUSE OF LORDS MSS.

1691–2.

Hudson's evidence for the Duke may be read, which is done. *William Purchase* and *Col. Jacob Richards* examined.* *Anne Burton* recalled and re-examined. *Mary Sheriff* examined. *William Purchase* recalled and re-examined. [Deposition of Simon Verelst read.] *John Rothmell*, *John Hall* and *Hosea Grimsley*† examined. *Sir W. Williams* (for the Duchess): We have further evidence to prove my Lady's innocence, and a great deal we have from the Duke himself, and that the Duke was reconciled since. *Sir Thomas Powys* goes on. *Sir. W. Thompson* being asked if they have any more witnesses, says: We have witnesses to support our witnesses. *Mr. Ward* says the same. Witnesses examined, viz., *Edward Sylvester*‡ and *John Jones*, *Thos. Cook* (to support Rowland Owen), *Capt. Chas. Potts*, *John Fawcett*, *Lawrence Purcell* (to support Margaret Ellwood), *Peter Scriber* and *Thos. Lloyd*. *Moved* that Mr. John Germaine attend the House on (*sic*). Further witnesses examined, viz., *Andrew Anderson*, *Robert Hemming*, *John Reynolds*, *Margaret Forster*, and *Jane Wadsworth*. *Francis Knight*† re-examined. *Sir W. Thompson* (for the Duke): We have done with our evidence. *Sir W. Williams* (for the Duchess); This is new evidence to other places. I hope we shall be allowed convenient time to answer this. They withdraw. *Ordered* that Counsel for the Duchess proceed in their defence on 6 Feb. (MS. Min.; L. J., XV. 61.)

Feb. 6. Counsel called in. *Sir W. Williams* (for the Duchess): We shall speak to two of the witnesses the last day. [Deposition of Thos. Lloyd read.] Witnesses examined,* viz., *Alexander Herman* and *Anthony Moree* (against Thos. Lloyd), and *Grace Cook*, *John Hall*, *Margaret Condy*, *Alexander Herman*, *Mary Pennington* and *Frances Knight* (against Jane Wadsworth). *Sir W. Williams:* We have done with examination as to falsifying their witnesses. The matter upon the Duke's case was examined by L. Peterborough, and Mr. Sherrington was at the examination. Some of these witnesses were then examined. The Duke went with his Lady into France. There they parted with great assurance of true love, and the Duke came to Lady Peterborough and showed it. The Duke paid alimony. Whether we can send a Commission into France is the question. The Duke sent to her to join in the sale of Castle Rising, which she refused to do, and then he said he would be uneasy to her, and to this I shall call witnesses, and I hope this will make things fair. Witnesses examined, viz., *Judith Stourton*, *Elizabeth Camell*, *Matthew Scott* and *Robert Welborne*. *Mr. Ward:* We desire time to examine witnesses to support the credit of our testimony and to answer some new matter that they have now examined to. Counsel withdraw. *Ordered* that the Duke's Counsel proceed to examine witnesses on the 9th. (MS. Min.; L. J., XV. 65.)

Feb 9. Counsel called in. Mr. Welborne's Information read. The following witnesses examined for the Duke, viz., *John Prince*, *Emery Arguis*, *Robert Elmes*, *Charles Read* and *Henry Dagley*, *Senior* (to the credit of Jane Wadsworth), and *Henry Dagley*, *Junior*, and *John Hoskins* (to discredit John Hall). *Ordered* that Counsel on both sides sum up on the 11th, and that Mrs. Sawbridge and Mrs. Stourton then attend to be heard. (MS. Min.; L. J., XV. 69.)

Feb. 11. Order of 9th inst. renewed for the 12th. (MS. Min.; L. J., XV. 72.)

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* For the depositions of these and other witnesses this day, *see* Annex (*w.*).

† These two examinations (Annex (*w.*) below) are not mentioned in MS. Min.

‡ During Sylvester's examination, L. Lucas said he was an honest man. MS. Min.

Feb. 12. Counsel called in. On motion by Counsel for the Duke, *Edith Sawbridge* and *Judith Stourton* are called in and examined.* *Counsel* (for the Duke): We have given our evidence, and it is for Sir W. Williams to begin. *Serjeant Thompson* (for the Duke): The Bill is brought for a divorce. The cause is adultery. We have given as great an evidence as may be. We have positive and other evidence. (Reads evidence of Owen.) He is very positive. (Reads evidence of Ellwood). This is positive and presumptive too. (Reads evidence of Hudson, Burton and Verelst.) No man can doubt of this in 1685, I think, in the least. The Duchess in her Answer says she was at Drayton, and Mr. Reyner [also]. *The Civilian* for the Duke is heard, and speaks much to the corroborating evidence, and recites those things. The business of the shirt is so strong and presumptive a proof, that nothing can be more so. *Sir W. Williams* (for the Duchess): They call it full proof and there are but two witnesses. They say it is hard to prove adultery, and therefore you must take conjectural evidence. Therefore, if these two witnesses were out of the case, there is not the least shadow or umbrage in the case. The most innocent lady in the world may be in a person of honour's company. Speaks to all the particulars in the evidence against and for the Duchess. Counsel withdraw. *Proposed* that the House should be adjourned now and the others heard on the next day appointed for this business. After debate, *Question:* Whether the further hearing of this Cause shall be adjourned to another day? Resolved in the *Negative*. Contents, 42 (including 10 Proxies); Not-Contents, 44 (including 14 Proxies). Tellers, L. Chandos and L. Howard of Effingham.† *Moved*, that but two Counsel be heard on either side. *Moved*, that the Speaker order the Counsel to repeat nothing that has been said. Counsel called in again. *Sir Thomas Powys* (for the Duchess) went on. The time is great in this matter. It is of marvellous consequence to all parents. The Duke had this under examination, and since acquiesced under it for six years, and now the Duchess is to answer for it. The Duchess is under great disadvantage in this defence. His Grace has been three years preparing, and we have but three days to answer. He examined 24 witnesses to confound us; nay, one witness gave herself by a wrong name. This was hard upon us. Many things we have been denied. We had not the Duke's answer. We have not had time by a Commission or otherwise to examine witnesses; yet it so happens we have made a very great defence. I hope you will not judge her otherwise than you would for her life. We were told your Lordships would fully hear all before you passed the Bill. (He then speaks to the evidence.) We suppose Mr. Knifton is kept from us. *Sir Thomas Pinfold:* This is out of time. It lay upon the Duke to prove this, and he ought to have done it before. Now it is no evidence at all. *Sir W. Thompson*, and *a Civilian* heard to reply. Counsel withdraw. *Ordered* that the House proceed further in the debate on the 16th; all Lords to attend, unless they can give a reasonable excuse. (MS. Min.; L. J., XV. 73.)

Feb. 16. Order for the adjourned debate read. *Moved*, that the Bishops be heard as to the Divine law in this case. *Moved*, that the Depositions be read. After debate, House put into Committee for more freedom of debate. E. Bridgewater in the Chair. Debate carried on, and after some time spent therein, House resumed. *Moved* to consider whether Proxies shall be used in this Bill? After debate

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* *See* Annex (*w.*). No notes of their evidence appear in MS. Min.

† L. Howard is not among the Lords recorded either in L. J. or MS. Min. as present this day.

HOUSE OF LORDS MSS. 1691–2.

thereupon, *Question* put: Whether Proxies shall be used in the proceedings on this Bill of the Duke of Norfolk? *Previous Question* put: Whether this Question shall be now put? Resolved in the *Affirmative*. Contents, 50 (including 9 Proxies); Not-Contents, 47 (including 17 Proxies). Tellers, E. Feversham and E. Radnor. *Main Question* put and resolved in the *Negative*. Contents, 30; Not-Contents, 43. Tellers as before. Several Peers protested. *Ordered*, that the Depositions be read and the debate resumed the next day. (MS. Min.; L. J., XV. 78.)

Feb. 17. Depositions on both sides read. *Moved*, that the Question be put: Whether the Bill shall be read the second time? After an interruption caused by some words of heat spoken by E. Lincoln to E. Rochester, for which E. Lincoln was reprimanded by the Speaker, but excused from kneeling on account of his "unwieldiness," the Debate was resumed.* *Question:* Whether the Bill be now read a second time? Resolved in the *Negative*. Contents, 35; Not-Contents, 40. Tellers, E. Stamford and E. Feversham. (MS. Min., L. J., XV. 81.)

Feb. 18. House *moved* upon the Reasons for protestation yesterday entered concerning Proxies not being used upon the Bill. The Lords who signed the Reasons agreed, and made some alterations in them.† (MS. Min. No. entry in L. J.)

Feb. 24. *Moved* that the Depositions taken in D. Norfolk's case be entered. *Ordered* that (*sic*). (MS. Min. No entry in L. J.)]

Annexed:—

(*a.*) 8 Jan. 1691–2. Petition of Mary, Duchess of Norfolk. Petitioner is informed that the Duke is offering a Bill for dissolving the marriage between him and Petitioner. Prays to be heard before such Bill be received. *Signed* Mary Norfolke. *Endorsed* as read this day. MS. Min. No entry in L. J. Howell's State Trials, XII. 886. *In extenso.*

(*b.*) 13 Jan. Petition of same. Petitioner, having been married to the Duke for 14 years and upwards, never had had or received from him the least intimation of any misdemeanour on her part against him, which, joined to her innocency of the crime in the Bill, makes this proceeding very surprising to her, her person, estate and honour, which is more dear to her than life, being now brought into question. Prays for a copy of the particular Charge against her, with the names of the witnesses, and for reasonable time to answer before further proceeding on the Bill. *Signed* as preceding. L. J., XV. 27.

(*c.*) 16 Jan. Paper entitled: The usual method of proceeding in the Ecclesiastical Courts when a man sues his wife in a cause of separation or divorce for adultery. 1. She is to be cited to appear at a certain time to answer him in such a cause, and then, she appearing in person or by her proctor, a Libel is to be given, and a copy thereof delivered to her or her said proctor, and the said Libel being admitted by the Court, in the next place there is to be *litis contestatio*, which is done by confessing or denying the charge in general. 2. Then the Court is to assign a time for proving the Libel, and if the man shall think fit, he may require

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* This debate lasted till 8 in the evening, and Counsels' speeches on the 12th till 7. (Luttrell, Feb. 13, 18.)

† The alterations were made, as appears from the MS. Journal, in the third and last Reason assigned for the Protest, and consisted of substituting for some words erased, the following words in italics, viz.: "3. If such a Vote might be made, yet 'twas unreasonable *for those Lords who were against Proxies to make use of Proxies in the previous Question*, which was in effect to make the Lords concerned to vote against themselves."

the woman's answer to such articles of the said Libel as do not directly touch the crime, and he may produce and have his witnesses sworn in the presence of her or her proctor, giving a note of their names, and she is to have at least 24 hours time to give in Interrogatories, upon which the said witnesses are to be examined as well as upon the Libel. 3. The time for examining the witnesses and proving the Libel is left to the discretion of the Court, considering the distance of the places where the witnesses dwell. 4. The woman may give in any matter that shall be relevant, and the aforesaid methods are to be observed for proving the same. 5. When the witnesses are examined, publication of their depositions is to be decreed. 6. Then each party may give in any just exceptions against the persons or sayings of the witnesses examined on the other side, and proofs being made upon such exceptions in manner as aforesaid, the cause is to be concluded and sentence given. *Endorsed* as received this day from Sir Charles Hedges.

(*d.*) 16 Jan. Duke of Norfolk's Charge against his Duchess. L. J., XV. 34. *In extenso.*

(*e.*) 19 Jan. Answer of the Duchess to the Duke's Charge. *Endorsed* as brought in and read this day. L. J., XV. 37. *In extenso.*

(*f.*) 19 Jan. Amended Charge of the Duke. *Endorsed* as brought in this day. L. J., XV. 37. *In extenso.*

(*g.*) 20 Jan. Petition of the Duchess. Petitioner is advised that for her just defence, it is necessary to allege in her answer several special matters relating both to the Duke and herself. It is impossible in the short time allowed her, to prepare such an answer as she is advised is necessary. Prays for convenient time to answer. *Signed* M. Norfolke. *Endorsed* as read this day. L. J., XV. 40. Howell's State Trials, XII. 891. *In extenso.*

(*h.*) 21 Jan. Answer of the Duchess. *Endorsed* as delivered by her at the Table this day. *Signed* Mary Norfolke. L. J., XV. 42. *In extenso.*

(*i.*) 22 Jan. List of witnesses to be summoned on behalf of the Duke, viz., Capt. Steward, Miles, Jane Wadsworth, Rice Jones, Anne Jones, John Hoskins, John Hall, Mary Boyle, William Bayley, [Harman],* Mary Hall, Thomas Foster and wife, Symon Verelst and wife, Harrison, Thomas Lloyd, John Wood, Richard Owen, [Charles Read],* Peter Scriber, John Reynolds, Henry Dogley, Junr., John Colvin. *Endorsed* as dated.

(*k.*) 23 Jan. First Protestation offered by Mr. Franklyn this day on behalf of the Duchess. The signature Jno. Walker is subscribed. The Protestation has "assumunt," not "assumit" as in L. J. *Endorsed* as brought in this day (1). L. J., XV. 46. *In extenso.*

(*l.*) 23 Jan. Second Protestation offered by Mr. Franklyn this day on behalf of the Duchess. Signature as in preceding. The Protestation has "productioni" and "praxin," not, as in L. J., "productione" and "praxim." *Endorsed* as brought in this day (2). L. J., XV. 46. *In extenso.*

(*m.*) 23 Jan. Translation of second Protestation. *Endorsed* as brought in this day (3). L. J., XV. 47. *In extenso.*

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* The two names in square brackets are struck through.

HOUSE OF LORDS MSS.

1691–2.

(*n.*) $\frac{23 \text{ Jan.}}{9 \text{ Feb.}}$ List of witnesses sworn on Jan. 23 (*See* L. J., XV. 46–7) and Feb. 3 and 9 on behalf of the Duke.

(*o.*) 23 Jan. Paper entitled "What the Duke of Norfolk's witnesses said at the Bar in answer to the questions asked them by the Duchess's Proctor before the swearing them." *Endorsed* as dated. L. J., XV. 46, 47. *In extenso.*

(*p.*) 25 Jan. Petition of the Duchess. Prays for an allowance from her husband pending the suit, according to the practice of the Ecclesiastical Courts, where the Plaintiff is obliged to pay weekly to the Defendant enough money to defend the suit. *Endorsed* as read this day; nothing done on it. L. J., XV. 49.

(*q.*) $\frac{26 \text{ Jan.}}{1 \text{ Feb.}}$ Depositions of witnesses examined on these days. They are printed almost *verbatim* in Howell's State Trials, Vol. XII., at the pages stated below :—

26 Jan.	Feb. 1.
Rowland Owen, p. 897.	Frances Knight, p. 901.
Margaret Ellwood, pp. 902–3.	Henry Reyner [Keymer in MS. Min. and Depositions], pp. 901–2.
Thomas Hudson, pp. 906–7.	Rowland Owen (recalled), p. 897.
Anne Burton, pp. 908–10.	Michael Haddon [Sergeant Hatton in MS. Min. and Annex (*s.*)], p. 905.
Simon Verelst, pp. 911–2.	Joyce Heath [Hill in MS. Min.], p. 905.
Thos. Foster, p. 913.	Mary Trevis [Farrer in MS. Min.], p. 905.
	Mary Jones, p. 905.
	Anne Ross, pp. 905–6.
	Mary Ross, p. 906.

[Rough notes of their evidence, corresponding generally with the above, but with more particulars, appear in MS. Min. of dates.]

(*r.*) $\frac{26 \text{ Jan.}}{1 \text{ Feb.}}$ Names of witnesses examined on these days, as in preceding paper.

(*s.*) $\frac{28 \text{ Jan.}}{5 \text{ Feb.}}$ Names of witnesses ordered to attend to be sworn on behalf of the Duchess on 28 Jan. (L. J., XV. 54), on 29 Jan. (*ib.* 55), on 3 Feb. (*ib.* 61), and on 5 Feb. (*ib.* 64).

(*t.*) 29 Jan. Petition of the Duchess for further time till 1 Feb. to make her defence. *Signed* M. Norfolke. L. J., XV. 54. Printed *in extenso* in Howell's State Trials, XII., pp. 895–6.

(*u.*) $\frac{1 \text{ Feb.}}{12 \text{ Feb.}}$ Paper *endorsed* "Witnesses' names for Duchess of Norfolk. Per Mr. Elfe." In addition to certain witnesses examined on Feb. 1, 3, 6 and 12, whose evidence appears in Annexes (*q.*) and (*w.*), the list contains the following, viz., Mrs. Dorothy Lupeere, Col. Carwell, Chas. Sadler, George Wheatcroft, Chas. Benskin, Thos. Benskin, Samuel Kecke, Todd, Hannah Rothmell, John Elwell, Chas. Chadwick and Edward Wright and wife. None of these, except Susan Wheatcroft, are marked as sworn.

(*w.*) $\frac{3}{12}$ Feb. Depositions of witnesses examined on Feb. 3, 6, 9 and 12. They are printed *verbatim* in Howell's State Trials, XII. at the pages stated below :—

Feb. 3 :—

William Purchase, pp. 907–8.*
Col. Jacob Richards, p. 908.
Anne Burton, p. 910.
Susan Wheatcroft, p. 910.
Mary Sheriff, pp. 910–11.
William Purchase, p. 911.
John Rothmell, pp. 912–3.
John Hall, pp. 913–4.
Hosea Grimsley, p. 914.
Edward Sylvester, pp. 899–900.
John Jones, pp. 900–1.
Thos. Cook, p. 901.
Capt. Chas. Potts, p. 904.
John Fawcett, pp. 904–5.
Lawrence Parnell [Purcell], p. 905.
Peter Scriber, p. 916 †
Thomas Lloyd, pp. 914–5.‡
Andrew Anderson, pp. 916–7.
Robert Hemming, p. 917.
John Reynolds, p. 917.
Margaret Forster [Foster], p. 917.
Jane Wadsworth, pp. 917–9.
Frances Knight, p. 919.

Feb. 6 :—

Alexander Herman, p. 915.
Anthony Moree, p. 915.
Grace Cook, p. 919.
John Hall, p. 920.
Margaret Condy, p. 920.
Alexander Herman, p. 920.
Mary Pennington, pp. 920–1.
Frances Knight, p. 921.
Judith Stourton, pp. 921–2.
Elizabeth Camell, p. 926.§
Matthew Scott, p. 926.
Robert Welborne, pp. 926–8.

Feb. 9 :—

John Prince, p. 919.
Emery Arguies [Arguis], p. 919.
Robert Elmes, p. 919.
Charles Read, p. 919.
Henry Dagley, Senior, p. 919.
Henry Dagley, Junior, p. 921.‖
Henry Hoskins, p. 921.

Feb. 12 :—

Edith Sawbridge, pp. 922–5.
Judith Stourton, pp. 925–6.

(*x.*) $\frac{3 \text{ Feb.}}{12 \text{ Feb.}}$ Names of witnesses whose Depositions are given in preceding Paper, with the pages thereof where they occur.

(*y.*) 17 Feb. Paper endorsed "Witnesses' names, numbered as read in the House 17 Feb. 1691." The names are arranged in three columns, headed respectively : (1.) Witnesses and evidence for the Duke. (2.) Objected to by the witnesses examined on behalf of the Duchess. (3.) Witnesses to support the Duke's evidence.

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* This Deposition reads "He knows not *where Keymer* was." Howell has "that Reyner (*sic*) was."

† An expunged passage in this Deposition, which appears also in MS. Min., states that Scriber learned from his servant that Capt. Germaine had been once at Scriber's house at Vauxhall, when Lady Bateman was there.

‡ An expunged entry in this Deposition states that the wine-merchant, who took the house, "had a red face and light hair." In the MS. Min. the witness is made to say of Germaine, "I have seen him several times. He was a portly man, and wore his own hair." The words below in italics occur in this Deposition, but are not in Howell : "If he could see him now, he could tell whether it was he. *He has not seen him since the lady went away.* He believes Germaine was there every month in both summers."

§ The Deposition has thirteen, instead of seventeen, months, as in Howell.

‖ Counsel withdrew, while the House considered whether this Deposition should be allowed or not (MS. Min.).

HOUSE OF LORDS MSS. 1691–2.

525. Jan. 12. Davile's Estate Act.—Consents of John Copley, William Garth, Thos. Mowbray, William Davile, Tryphosa Davile, James Wilkinson, and Henry Davile, to the passing of the Bill to enable William Davile to sell some lands for payment of debts. *Dated* 13 May 1690. *Attested* by C. Wilkinson and Matth. Smelt. [Read in Committee this day. (Com. Book.) The Bill was brought from the Commons on 24 Dec. 1691; Royal Assent, 24 Feb. 1691–2. (L. J., XIV. 701; XV. 93.) 3–4 W. & M. c. 34. in Long Calendar.]

526. Jan. 13. Browne *v.* Mercer.—Petition and Appeal of Edward Browne, Merchant. John Austen, being indebted 362*l.* to Appellant, became a bankrupt, and having effects in Spain in the hands of Power and Hill, Appellant sent his procuration to Spain to attach 18,000 Ryalls plate in their hands, which was done. Thereupon Mercer and others, Austen's assignees in bankruptcy, brought a Bill in Chancery against Appellant, Power and Hill for an account of Austen's estate and to have the attachment discharged. Appellant had no effects of Austen's in his hands. On 4 Dec. 1689 the Lords Commissioners decreed an account against Power and Hill, and that Appellant should give the proper authority for enabling the plaintiffs to demand the money so attached and for transmitting the estate and effects in the hands of Power and Hill to England; and on a rehearing on 3 March 1691 they decreed Appellant to pay the Plaintiffs the value of 18,000 Ryalls by him attached for 450*l.*, and on payment thereof, Power and Hill to consent that Appellant should receive the 18,000 Ryalls and take the same out of the Court at Cadiz. Appellant has since been prosecuted for payment of the 18,000 Ryalls although he has not received one penny thereof, and probably never may, but certain it is that if he had not caused the attachment to be made, Austen himself might by the custom of Spain have forced Power and Hill to deliver the said effects to him. Prays that the Decree, so far as regards himself, may be reversed. *Signed* by Appellant; *Countersigned* by W. Whitelocke and Thos. Filmer. L. J., XV. 26. [The Cause was heard on 13 Feb., when the last Decree was reversed and the first affirmed (*ib.* 75). *Mr. Sloane* and *Mr. Dobyns* appeared for Appellant, and *Mr. Trevor* and *Sir Ambrose Phillips* for Respondents. (MS. Min.)]

Annexed:—

a.) 23 Jan. 1691–2. Answer of John Knapp and George Cole, Merchants. John Austen, a dyer, being a debtor to Respondents, as well as Sir John Buckworth, Daniel Mercer, Edward Sherwood and others, fraudulently and to defeat his creditors, consigned large effects of his estate to Power and Hill to Cadiz in 1683, with orders to transfer them to one Walter Ryan, which was done. The Commissioners of Bankrupts assigned these effects to Respondents and Buckworth, Mercer and Sherwood in trust for them and Austen's other creditors, and Ryan and Austen also assigned them to Buckworth, the Respondent Knapp and others in trust for Austen's creditors, of all which Power and Hill had notice, and promised in writing to have the effects at the disposal of the assignees. No attachment ought to lie against them, the same having been duly assigned and transferred, and Austen had not the power to take them out of the hands of Power and Hill. Appellant, after claiming in 1684 to be a creditor of Austen, and coming in and paying his contribution money to George Cole, the treasurer of the Commissioners, in 1686, when the assignees were expecting the returns of the said effects by Power and Hill for the benefit of the creditors, caused the 18,000

Ryalls to be attached for a pretended debt of 450*l.*, and compelled Power and Hill to pay them into the hands of the Judge of the Court at Cadiz, and endeavoured to have them applied to the payment of his own debt only in prejudice of the rest of the creditors. The Court of Chancery ordered that Appellant should be paid his debt in due proportion to the rest of the creditors, and referred it to a Master to examine his demands. Appellant has brought his Appeal merely for delay and to prevent being committed to the Fleet. He conceals the fact of his having had notice of the Commission of Bankrupt and of having paid his contribution money. The nonpayment of his debt is entirely his own fault, having acted so irregularly. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; no countersignature by Counsel. *Endorsed* as brought in this day.

527. Jan. 13. Bayley *v.* Robson.—Petition of Sarah Bayly. About 1671, James, the late husband of the Respondent Ann Robson, having purchased two leases of a brewhouse in Cambridge of one Susan Rix, afterwards Hamond, gave her a bond in 1,075*l.*, together with one Holt, to pay it. After her husband's death, Ann, as his administratrix, prevailed on Edward Bayley, a friend, to stand bound in place of Holt, and being afterwards arrested for debt, Bayley lent her 450*l.*, for which, not wishing to let her know it was his own money, he took bond in the name of one Alderman John Jeffreys, late of London, and was bound with her and her son, James Robson, therein for it. To secure him, she offered in 1684 to mortgage several lands in Cambridgeshire and to admit him as a partner in the brewery, pretending to have 1,800*l.* stock in the trade, and her son gave him a counterbond against Hamond's debt. Bayley afterwards discovering that Ann was in debt more than her stock was worth, refused to accept the partnership, but afterwards became bound with her and her son for 150*l.* borrowed of one Shanler, and 150*l.* borrowed of one Hawkins, whose debt he subsequently discharged, besides disbursing other sums at her instance. The mortgage was drawn for 1,000*l.*, but dated by Mr. Hunt, the scrivener, the day when he drew it, and the date was omitted to be altered when it was executed, at which time Ann and her son owed Bayley 1,400*l.* and upwards, besides Hamond's debt. Bayley discovering that the mortgaged premises were subject to previous incumbrances on the part of Paske and Bryan, contrary to what Ann had affirmed and covenanted, brought his Bill in Chancery to compel Paske and Bryan to set forth their claims, and that Ann and her daughters, the sisters and heirs of her son then dead, without issue, might pay the 1,000*l.* or be foreclosed. The defendants answered that the 1,000*l.* was not paid to Ann before the mortgage was sealed, but that the mortgage was only to secure Hamond's debt, and that all the moneys received by Ann from Bayley were on account of the partnership, and afterwards exhibited a cross Bill to the same effect. The L. Chancellor Jeffreys directed a trial on the special issue whether the 1,000*l.* was paid before or after sealing the mortgage, and a verdict passed for Bayley, but the Lords Commissioners, contrary to this verdict, refused to admit payment of the 1,000*l.* and decreed that it should be reckoned as Bayley's share in the partnership, notwithstanding that the articles of partnership were cancelled long before the mortgage was executed. Prays that this Decree may be reversed, and Mary Ann and Katherine Robson ordered to answer. *Signed* by Appellant; *Countersigned* by J. Somers and G. R. Pauncefort. L. J., XV. 26. [This Appeal was appointed for hearing on 2 March 1692 (*ib.* 82), but the Prorogation intervened. A subsequent Appeal (Annex (*b.*)

HOUSE OF LORDS MSS.
—
1691–2.

below) was first heard on 28 Jan 1692–3, *Sir Thomas Powys* and *Mr. Jennings* being heard for Appellant, and *the Solicitor-General* and *Mr. Ward* for Respondents. On Question: Whether the Decree should be reversed, it was resolved in the *Negative*, the votes being equal, viz., 8 on each side. *Ordered*, that it be referred to a trial at law [if the Respondents desire it].* This Order was altered on 6 Feb., on reading a Petition of the Appellant (Annex (*d.*) below), and the House ordered a trial at law, upon the same issue as before, with power to give the partnership, and any other proof, in evidence. (MS. Min. of dates. L. J., XV. 206, 217). A verdict having been obtained, the Appeal, on petition of the Appellant † (L. J., XV. 229) was heard again on 2 Jan. 1693–4, when the Decree was reversed, and the Appellant admitted a mortgagee for the 1,000*l.* Counsel for Appellant being as before, and *Mr. Conyers* and *Mr. Dobyns* being heard for Respondents (*ib.* 332 ; MS. Min.).]

Annexed :—

(*a.*) 22 Jan. 1691–2. Answer of Ann Robson, widow, and Mary Ann and Katherine Robson, her children. Appellant was no party to any proceedings below, beyond being made a defendant for the discovery of a particular fact charged to be within her knowledge, and to which alone she answered. She does not even allege that her husband ever made a will, nor has she proved her title as his executrix. The Court on 27 Jan. 1690 decreed an account between her husband and the Respondent Ann touching the partnership and the 1,000*l.* pretended to be consideration of the mortgage, but proved to have been paid as his stock in the trade. Appellant's husband having killed himself since the decree, the suit became abated and has not yet been revived. Prays that the Appeal may be dismissed with costs. *Signed* by the Respondent Ann ; *Countersigned* by T. Vernon. *Endorsed* as brought in this day.

(*b.*) 10 Dec. 1692. Petition of Appellant. Identical with her first Petition above, except in adding that her husband had died since the decree, and that she had duly proved his will. Prays also that proceedings may be stayed. *Signed* by Appellant; *Countersigned* by E. Jennings and G. Pauncefort. L. J., XV. 141.

(*c.*) 29 Dec. 1692. Answer of Respondents. Almost identical with the previous Answer (Annex (*a.*) above), omitting, however, the allegations as to the will. *Signed* and *Countersigned* as above. *Endorsed* as brought in this day.

(*d.*) 6 Feb. 1692–3. Petition of Appellant. At the hearing on 28 January last, it appeared that after Petitioner's testator had obtained a verdict upon the special issue directed by the Court of Chancery to try whether the 1,000*l.* was really lent on the mortgage, the Court, contrary to the verdict, decreed that the 1,000*l.* was brought into the partnership in the brewery. Respondents never pretended that the verdict was unduly obtained, but their Counsel alleging before their Lordships that part of the matters by them suggested were not offered at the trial at law, their Lordships ordered another trial. The allegation is wrong. Prays to be heard to the matter thus suggested. [L. J., XV. 217.]

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* These words in square brackets appear expunged in MS. Min. L. J., XV. 206, gives the Order as subsequently altered.

† Annex (*e.*).

(*c.*) 14 Feb. 1692–3. Petition of Appellant. Petitioner has drawn up the same issue as before in the Court of Exchequer and tendered it to Respondents, who refuse, however, to name an Attorney to appear. Prays that the Respondent Ann Robson may be ordered forthwith to plead to the action, and that the Sheriff of Cambridge there attend with the book of freeholders for nominating a special jury for a trial at the next assizes. L. J., XV. 229.

(*f.*) 17 Nov. 1693. Petition of Appellant. A trial at law has been had, as directed, and Petitioner has obtained a verdict. Prays that the Decree of the Lords Commissioners, which is contrary to both verdicts, may be reversed. L. J., XV. 300.*

(*g.*) 22 Nov. 1693. Answer of Anne Robson, one of the Respondents, to preceding Petition. A verdict was obtained as alleged, but Petitioner hopes that the House, on a further hearing, will sustain the Decree. *Endorsed* as brought in this day. [Appended to preceding.]

(*h.*) 4 Dec. 1693. Petition of Appellant for a day for hearing the Cause as to such matters as were reserved at the last hearing for further consideration after the trial. L. J., XV. 312.

(*i.*) 7 Dec. 1693. Petition of Respondent for further time for hearing, her writings being at Cambridge, where she lives. L. J., XV. 316.

528. Jan. 15. D. Grafton's Estate Act.—Amended draft of an Act for vesting certain pieces or parcels of ground in the parishes of St. James and St. Martins-in-the-Fields, late the estate of Henry, Duke of Grafton, deceased, in Trustees, to be sold. The two Amendments of the Lords (Com. Book, Jan. 20) are purely clerical. No amendments in the Commons. [Read 1ª this day; Royal Assent, 24 Feb. (L. J., XV. 32, 92). 3–4 W. & M. c. 11 in Long Calendar.]

529. Jan. 19. L. Stanhope's Estate Act.—Amended draft of an Act for the enabling Phillip, Lord Stanhope, son and heir apparent of the Right Honourable Phillip, Earl of Chesterfield, together with the said Earl, to make a jointure and settlement upon the marriage of the said Phillip, Lord Stanhope. The Lords' Amendments are to add the Clause in Annex (*a.*), and to insert the names of Sir Henry Capel, Sir Henry Goodrick, Sir Wm. Stanhope, and Chas. Hutchison, Esq. (Com. Book, 21 Jan.). The Commons' later Amendments are given in C. J., X. 665. [Read 1ª this day; Royal Assent, 24 Feb. (L. J., XV. 37, 92). 3–4 W. & M. c. 14 in Long Calendar.]

Annexed:—

(*a.*) 21 Jan. Draft Clause ✠ (appended to preceding) making provision for L. Stanhope's future wife, in respect of expenses of apparel and pin money. [Added in Committee and reported this day. Com. Book; L. J., XV. 41.]

530. 20 Jan. Tross *v.* Pearce.—Petition and Appeal of Henry Tross, Esq. Appellant's brother Nicholas, being seized of the Barton of Yendacott and other lands in Devonshire, on his marriage with Wilmott, daughter of William Lee, by deed of 18 May 1659 conveyed the estate to the use of the heirs male, failing whom, the heirs female of the marriage, with remainder to the use of himself and

* The MS. Min. of 2 Dec. have the following expunged entry: "A Petition of Sarah Bayley is read. Ordered that the Clerks search the books of what has been formerly done in this case."

HOUSE OF LORDS MSS.
1691–2.

Appellant, with remainders over, under a proviso that, if he should have no heir male, but only a daughter or daughters by Wilmott, then, on payments by the person enjoying the premises of 1,500*l.* portion to such daughter, if only one, or 1,000*l.* apiece, if two, or 2,500*l.*, to be equally divided among them, if more than two, at the age of 18, the use limited to the heirs male was to cease. In 1664, before any children were born of the marriage, Nicholas, Appellant and Walter Tross, their brother, levied a fine of the estate to one Benjamin Oliver, whereby Nicholas became seized in fee simple of all the premises, except such part as was purchased by Oliver, and settled them the same year on himself, Appellant and Walter, and their heirs male respectively, failing whom, on himself and his heirs. Shortly after, Nicholas died without issue male, leaving Wilmott *enceinte* with the Respondent Rebecca, and Appellant became entitled to the estate in fee tail, and took and held possession until Rebecca and her husband brought a Bill in Chancery claiming the 1,500*l.* for Rebecca as the only daughter, under the marriage settlement and entail, notwithstanding the fine levied in 1664, which barred it. The Lords Commissioners on 21 Nov. 1691 decreed payment with 5 per cent. since the time she reached the age of 18. This decree is unjust. The marriage settlement was designed to leave the estate entirely in the disposition of Nicholas, who, as tenant in tail, had power to cut off the entail and settle the lands to other uses, which he has effectually done. Prays that the Decree may be reversed. *Signed* by Appellant; *Countersigned* by J. Somers and Jo. Tremayne. L. J., XV. 39. [The Cause was heard on 9 Dec. 1692. *The Attorney-General* (for Appellant) having opened the case, *Counsel* (for Respondent) took exception to the reading of a deed. *The Attorney-General* heard to it for Appellant. *The Solicitor-General* (for Respondent): It is no ways regular to be read, nor was it made use of below. Counsel withdrew, and the Speaker reported the state of the case as to the deed being read or not. *Ordered* that the Deed might be produced in Chancery, which was to proceed *de novo* thereupon. L. J., XV. 141.]

Annexed:—

(*a.*) 29 Jan. 1691–2. Petition of Edward Pearce [*signs* Peare], Gent. Petitioner lives near Exeter, and is ill of a fever. Prays for a fortnight's further time to answer. L. J., XV. 54.

(*b.*) 13 Feb. 1691–2. Answer of Edward Pearce, Gent., and Rebecca his wife. Appellant claims under some old entail made by his grandfather, which was barred by the fine. The Court of Chancery declared that the 1,500*l.* portion was an equitable charge on the estate, and decreed payment thereof with interest from 6 May 1685, with costs, as taxed by a Master, who was to see that suitable settlement was made on Rebecca and her children, in case there was no settlement already made, and ordered a sale of the estate to raise the said portion. Appellant seeks to have an estate worth 8,000*l.* to be sold from the family, while refusing to pay Rebecca, the heir of the family, her portion. The deeds set up were never in issue before the hearing, and should, therefore, be disregarded. *Unsigned. Countersigned* by Nic. Hooper. *Endorsed* as brought in this day.

(*c.*) 28 Nov. 1692. Petition of Appellant for a short day for hearing. L. J., XV. 127.

531. Jan. 20. Shadwell (St. Paul's) Waterworks Act.—Amended Draft of an Act for incorporating the Proprietors of the Waterworks in the parish of St. Paul's, Shadwell, in the County of Middlesex, and

for the encouraging, carrying on and settling the said Waterworks. The Lords' Amendments were to add Annexes (*b.*) and (*c.*), to insert the name of Thos. Neale as first Governor, to fix the number of Assistants at 12, and to add the words ("*Feast of St. Michael the Archangel*"). The Commons' later Amendments were to add the rest of the Act after the Proviso in Annex (*b.*), and to correct some verbal errors in the engrossment. *See* C. J., X. 679. [Read 1ª this day; Royal Assent, 24 Feb. (L. J., XV. 39, 93). 3–4 W. & M. c. 44. in Long Calendar. *Mr. Neale* stated in Committee that the Bill was the same as the late Act for the Waterworks at York Buildings,* and the Patent and Lady Wentworth's grant were read. (Com. Book 22 Jan.)]

Annexed:—

(*a.*) 23 Jan. Lords' Amendments to the Bill. [Made in Committee 22 Jan. (Com. Book), and reported this day. (L. J., XV. 45).]

(*b.*) 23 Jan. Proviso that the Governor and Assistants, upon complaint by the lessees or tenants, shall submit to any regulation made by Order in Council. [Added in Committee 22 Jan. (Com. Book), and reported this day. (L. J., XV. 45).]

(*c.*) 23 Jan. Names of first Governor and 12 Assistants. [Inserted in Committee 22 Jan. (Com. Book), and reported this day. (L. J., XV. 45).]

532. Jan. 20. Alnage (Customs Collection) Bill.—Commons' Engrossment of an Act for transferring the Collection of the Duties of Alnage to the Custom House, and for giving a recompense to the Crown for the same. Besides some purely verbal alterations, this Bill differs from the Bill of 22 Dec. 1690 (No. **369** in last Calendar), by omitting the words of that Bill inserted below in square brackets, and adding the words in italics, viz.:—

Clause 1.

. . . from and after the [second] *five and twentieth* day of [February] *March*, one thousand, six hundred [and] ninety *two*, the Office . . .

. . . subsidy of Alnage shall *for ever* cease . . .

. . . as [required] *requires* or [enabled] *enables* the collecting *of* the said duties by the [Alnage officers] *said Alnagers, Collectors, or their officers or servants* shall . . .

Clause 2.

After the words ("authority aforesaid") down to ("that is to say"), this Clause reads as follows:—"That all the duty or subsidy of alnage due and payable before the passing of this Act for the woollen manufactures of this kingdom shall, from and after the said five and twentieth day of March, be for ever only due and payable at their Majesties' Custom Houses upon the exportation of such manufactures, and according to the proportions hereinafter specified, that is to say."

The Clause concludes as follows:—"And for every rug and coverlet, one halfpenny, and so in proportion for any greater or lesser quantity than is herein-before particularly mentioned."

Clause 3.

. . . the said [subsidy or custom] *duty or subsidy of Alnage at the said Custom Houses*, the same . . .

Clause 4.

. . . payable by the Merchant *upon the exportation thereof* by virtue of this Act . . .

. . . of every such cloth *to be exported;* and that . . .

Clause 5.

. . . received *at their Majesties' Custom Houses* by the [said] Custom House Officers, shall be *received* to the sole use . . .

* 2 Will. & Mary, sess. 2. c. 24 (1691). Charles II. by Letters Patent in 1681 had granted to Thomas Neale and his assigns the privilege of constructing waterworks at Shadwell to supply the manors of Stepney and East Smithfield.

HOUSE OF LORDS MSS.

1691–2.

. . . as the said Duchess [had] *hath* any right . . .
. . . Alnage hereby transferred *to the said Custom Houses*, or to any rent . . .

Clause 6.

. . . or their order, *for and during her term and interest in the said duty or subsidy of Alnage*, and for such *their* payments, . . .

Clause 7.

. . . out of which term there are about [thirteen] *eleven* years yet to come and unexpired, Be [it]* therefore further enacted, [declared] and [appointed] *provided* . . .
. . . such part of the said duty [or] *of** subsidy hereby granted and appointed to be paid to the said Duchess *as shall arise* at the Custom House . . .
. . . the first payment thereof to be made at [the feast of the Annunciation of the Blessed Virgin Mary] *Midsummer Day*, which shall be in the year of our Lord one thousand, six hundred, ninety [one] *and two, and his or his assigns' receipt shall be a sufficient discharge to the said Officers of the Customs for the same*, anything in this Act . . .

Clause 8 (not in former Bill).

Provided nevertheless, and be it hereby enacted that from and after the passing of this present Act, no advantage shall be taken by the said Duchess of Richmond, her executors, administrators or assigns, or any of them, against the heirs, executors, administrators or assigns of the Right Noble Charles, late Duke of Richmond and Lenox, or against the lands, tenements or hereditaments, or any of them at any time belonging to the said late Duke, for so many years only as the said Duchess hath any right or title to the said duty or subsidy of Alnage . . .

Parchment Collection. [Brought from the Commons this day, and read 1ª 21 Jan. (L. J., XV. 39, 41.) For further proceedings, *see* Notes to next Paper.]

533. Jan. 21. Alnage (Customs Collection) Bill.—Petition of Frances, Duchess Dowager of Richmond and Lenox and others, Farmers of the ancient Duties of Subsidy and Aulnage on Woollen Manufactures, under the said Duchess and her Trustees. Petitioner, the Duchess, has a legal right and title, in consideration as well of marriage as by purchase, to the said Duties for a long term of years yet to come, under a yearly rent payable to the Crown, and the other Petitioners are Farmers of those Duties under her, for a great fine and other valuable considerations and a great yearly rent for part of the said term. Petitioners understand that the Bill proposes not only to take away these duties and lay rates on exported woollen manufactures only as a recompense for the duties, but also to deprive the Duchess of her remedy against the late Duke of Richmond's estate to supply her jointure, in case of the deficiency of the said duties settled upon her by the late Duke. Petitioners desired to be heard in the Commons at the Bar against the Bill, but were only heard in Committee, on recommitment, to the point of compensation. The rates under the Bill will not be half the present duties. Pray to be heard by Counsel at their Lordships' Bar against the Bill. *Signed* by the Duchess and also by John Eyles, Joh. Hayes and H. Stephens. L. J., XV. 43. [The Bill (*see* No. **532**) was brought from the Commons on 20 Jan. (L. J., XV. 39.) After a first reading this day, the above Petition was presented and read, and the House made an order to hear Counsel for and against the Bill. (*Ib.* 41, 43.) Counsel were first heard on 8 Feb. *Sir William Thompson* (for the Duchess): This is the same to every purpose as the Bill before. The Duchess's interest is established by several Acts of Parliament. She had this for her jointure. I pray the Bill may be rejected. *Mr. Ward* (against the Bill): At this rate one third must pay the whole. The Duchess has let it out. This is a deficiency in value, estate and remedy. *Sir*

* Obviously an error in this engrossment.

Thomas Powys (for the Farmers): We were out of purse 14,000*l.*, and now is our time for profit. We hope this will not be taken from us. *Mr. Browne* (for the Farmers): In the Bill there is no notice for the Farmers. We hope the Bill will not take away our right. *Mr. Trevor* (for the King): The King has the inheritance, and if there is not a recompense, then it is hard. This will depend upon matters of fact. I see not a recompense to the King. We do not say it is no recompense without reason. The duty now is for all cloths in the nation; the duty given is only for what is exported. It is apparent this is not a recompense. This interest that the Duchess has, is founded upon an Act of Parliament, and if one that claims upon the sanction of an Act of Parliament (*sic*). *Sir Francis Winnington* (for the Bill): I have not heard any substantial argument against the Bill. They argue from private interest. They say nothing for the King but this, that [as to] those cloths consumed at home, the duty is lost. This will bring a greater hereditary advantage than now it does. We will give the Duchess such security as her Counsel shall advise, so that she shall not lose by this Bill. If there be a provision for the whole farm, must not the tenant pay the 1,000*l.*? *Mr. Darnell* (for the Bill): The collecting comes to twice as much as the revenue. The question is, whether we propose a sufficient recompense. They say 9,000*l.* was given for this lease. The sole interest is 30,188*l.* per annum. If there be sufficient recompense, there can be no harm. There are five persons Farmers for the Duchess. We propose ten persons as sufficient, worth some 10,000*l.* It is for the relief of oppression that this Bill is brought. This is computed to be a greater ease to the people than taking off the Chimney money. *Sir W. Williams* (in reply): Is anything more public than the revenue? And this is an ancient revenue. This was established in Edward III. Counsel withdraw. *Ordered* that the report and debate thereon be adjourned to the 10th inst. (L. J., XV. 67. MS. Min.)

On 10 Feb. the Speaker reported, and after debate, it was proposed that the Counsel should be called in and told that the House expected a compensation to be made to the Duchess; that they should meet together to consider of a recompense, and how it should be secured to her. The Counsel were then called in and instructed as in L. J., XV. 70 (MS. Min).

On 15 Feb. Counsel were heard. *Mr. Darnell:* I spoke with Mr. Sergeant Thomson, and told him I would wait on him, and we were ready to give the Duchess a security, or to buy it; and since, Mr. Sloane told me the Duchess's Counsel were sick. Sergeant Thomson sent me word last night he had not yet received order from the Duchess. *Mr. Sloane* (for the Duchess): She has not trifled at all with your Lordships. We are ready to go to Mr. Sergeant Thomson presently. *Ordered* that the Counsel concert together, and bring the Proposals hither on Wednesday next, and if they do not then agree, they will receive the Proposals from the Clothiers. *Counsel* called in and told by the Speaker that the House is not satisfied with the delay, and sickness of Counsel is not sufficient; and that, if they do not agree then, Mr. Darnell for the Clothiers do bring their Proposals on behalf of the Bill. (MS. Min.; L. J., XV. 77.)

On 17 Feb. Counsel being called in, *Mr. Darnell* (for the Clothiers) was heard as to what he had proposed to the Duchess's Counsel. The Duchess's Counsel then offered a Paper to the House, which was read.* *Mr. Ward* (for the Duchess) was heard. *Mr. Sloane* was heard. *Mr. Trevor* (for the King): I have not heard anything for the King's interest. *Mr. Darnell:* As they propose it, it is impossible for us to

* Annex (*a.*).

HOUSE OF LORDS MSS. 1691–2.

agree with them. A Clause offered by the Clothiers.* Counsel withdraw. The Order read. The Clause read by the Clerk. *Ordered*, That the Counsel for the Duchess shall have a copy of the Clothiers' Provisos, and that Counsel shall attend to-morrow. The previous Question on the motion that Proxies should not be used in the proceedings on the Bill was negatived without a division. (L. J., XV. 80–1. MS. Min.)

On 18 Feb., after a Petition of G. Hayes [Hase] and others, weavers of Norwich, had been read,† the House was moved again that Proxies should not be used upon the Bill. Then the Paper, delivered yesterday by the Duchess's Counsel against the Bill, was read. *Moved*, That a Committee be appointed to consider of proposals on either side, and report what agreement is made by Counsel on either side. The Bill was then read 2ª, and referred to a Select Committee, with instructions to examine into the true value of the Farm, &c. (L. J., XV. 83. MS. Min.).—The proceedings in Committee are as follows:—

On 19 Feb., L. Cornwallis in the Chair, Counsel being called in, *Mr. Ward* (for the Duchess) offers an account of the profit of Alnage, being a medium for three years, viz., 1686, 1687, and 1688, amounting to 7,350*l.*‡ The same is read. *Mr. Darnell* says he believes they make 20,000*l.* a year of the Alnage, but it is wrongfully, viz., by Shop rents and by extortion. A Table by which the Alnage is collected, is produced.§ *Mr. Moore* offers to make oath of the truth of the extract delivered in. *Mr. Darnell* produces acquittances || in 1687 for shop rent for stockings; another acquittance in the same year for Alnage, 8 Jan. 1687; another for Alnage, another for stockings, &c. 1688, another for Alnage in 1685. *Sir Thomas Powys* (for the Duchess): Stockings are alnageable, and so have been frequently adjudged in the Exchequer. We are warranted by Act of Parliament. *Mr. Ward:* Stockings pay by weight, and are not sealed severally, but by packs. The duties upon stockings and caps are not worth 100*l.* a year. Caps never paid 6*d.* *Mr. Darnell* (for the Clothiers): They own the seal is of no other use than to acknowledge the receipt of the Alnage. Where wool is mixt with silk or hair it is not within the Statute of Alnage, though decrees have passed to the contrary. We can prove that they have taken 50*s.* a year of one person for shop rent rather than have his shop tumbled. We will buy your right, but we will not buy your oppression. We can bring our action, but it is for such small sums, and the clothier forced to sue, being poor, the very suit, though he conquers, undoes him, for the suit will not cost him less than 20*l.* *Sir Thomas Powys:* The law gives to every man that has a duty to receive, a power to compound. We never took 6*d.* upon hats, though we have a judgment for them. *Mr. Ward:* Nothing has been taken by the Alnager but what is warranted by law. *Mr. Darnell:* The fee of the officer is due for measuring the cloths and setting the seal to them, to give them a reputation abroad. We will prove that they make us pay 3*s.* for which a groat is but due. Gives an instance thereof in a small parcel of stockings produced. We will prove extortion in every species. They are ordered to give the Clerk the names of their witnesses, and to what particulars they bring them; and also to bring them this morning to be sworn.¶ They withdraw. Adjourned till to-morrow. (Com. Book, 19 Feb.).

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* Annex (*b.*).
† Annex (*c.*).
‡ Annex (*d.*).
§ Annex (*e.*).
|| *See* Annexes (f^1.) to (f^5.).
¶ Several witnesses were sworn at the Bar this day on motion (MS. Min.).

On 20 Feb., L. Cornwallis in the Chair, Counsel are called in. *William Brewer, Esq.* (sworn at the Bar) says that he pays 4*d.* a seal for every cloth he makes, and one cloth with another weighs under 30 lb., which is double pay. He had 19 cloths seized on pretence he had paid but 3*d.* a cloth, whereas he had paid 19 groats. The cloths usually are between 20 and 24 yards apiece. He has paid this duty all this time. *Thomas Smith* says that he makes crapes, &c., and pays a penny a seal. Sometimes they weigh 2 lbs., sometimes 4 lbs. The officers have seized his goods before they were sealable, and they have made him pay for seizing and warehouse room, though they restored him his goods. Sir John Isles [Eyles] made him pay 43*s.* 4*d.* for a piece of stuff they seized, on pretence of being unsealed. The duty was but a penny, and I believe it was sealed. This was four or five years since. *Mr. Thomas Burford* (sworn) says that his serges, one with another, weigh 9 lbs. He pays 1½*d.* seal, which is 10½*d.* for 4½*d.* He paid for four or five years 1*l.* a year purely because they should not tumble his shop. This was fourteen or fifteen years since. The officers came to him first. *William Woodford* (sworn) says that all medley cloths that come to his hand pay 4*d.* They weigh about 30 lb. or 34 lb. apiece. They are about 26 or 30 yards long. We pay 5*d.* for white cloths from Sarum. He had once a cloth seized because it had a fivepenny seal on it instead of a fourpenny one, and he paid 6*s.* 6*d.* for it again. These cloths are generally above 24 yards, and weigh about 30 lb. *Counsel for the Duchess:* These cloths are by the Statute to pay by length and not weight. *John Mills* (sworn) says that he pays a penny a seal for rugs of 8 lb. or 9 lb. weight. He has seen much goods taken away in Bristol fair, when the seals have dropt off. He has paid 1½*d.* for rugs heavier. *William Stretton* says that about July twelvemonths since he sent for twelve chains [chenyes] from Norwich. They were seized, and he has been times without number with Sir John Isles [Eyles] for them. He has never had his goods again. They cost him 19*l.* 11*s.* 0*d.* They were seized for about 9*d.* or 13*d.* Sir John at length bade me get my goods by law, for I should not otherwise have them. I desired to buy them again of him, but he would not let me have them. They told me they were condemned in the Exchequer. *William Gourdon* says that July last was twelve months a Norwich weaver sent goods to him, value about 90*l.* He knows not whether they were sealed. The seals would not have been above 2*s.* 6*d.* They were seized before they came to his hand. *Roger Lillington* (sworn) says that it has cost him and his partner 15*l.* at a time for Norwich goods seized. Our stuffs are so thin that they will hardly bear seals; they drop off commonly. Now he has seals from Norwich (which he pays for) to put on. The officers coming to his warehouse to search, seized a piece of stuff, on pretence that it was not sealed, though he and his man could swear it was sealed when it was shown them. Norwich stuffs were never heard of till within twelve years. He has had 1,000 seals dropt off in his shop. The officers have cut open our packs on the road. Shows two pieces. *Thomas Powell* (sworn) says that the officers came to search his shop for unsealed goods. He told them most of his were so. They go through so many hands before they come to him, that three seals in four are off before they come to him. He believes it impossible for the seals to stay on; they go through so many hands. He has had several half pieces of cloth seized, where the end had been sold that had the seal on it. He has spent 30*l.* in a suit on that account, and has had a verdict for his cloth. In Cloth Fair they generally pay 9*s.* apiece a year for shop rent. I refused to pay; therefore they put me to this charge.

HOUSE OF LORDS MSS. 1691–2.

We can never get to a trial, whether they can search our shops. This was about twelve years since. Sir [Robert] Sawyer was Attorney-General. Sir John Isles' [Eyle's] servants have searched my shop and sealed our stuffs. I pay for fresh sealing, but not shop rents. *John Turner* says that four years since, the Alnagers demanded 9*d.* a cloth where we paid formerly but 6*d.* They seized in Blackwell Hall 400*l.* or 500*l.* worth of cloth, though I had paid the duty of 6*d.* 70 lb. or 72 lb. is the weight. He had a trial, which cost him about 100*l.*, and he had a special verdict. His cloths are about 44 yards long. He offered them 3*d.* a cloth more than the 6*d.* paid, which was all they pretended to, yet they carried them away. In the cloths there is a ferule where they may be cut. He never paid more than 6*d.*, though he made them all with ferules. (Com. Book, 20 Feb.)

On 23 Feb., L. Cornwallis in the Chair, the Parties are called in. *Edward Ferraby* (sworn) says that he belongs to the Norwich carriers, and it is the practice of the Alnage officers to search the waggons every Tuesday. They cut open our packs and have taken our goods that have been sealed. They have taken away a dozen pieces of rough goods of Mr. Dearsley's that were undressed. This was about 18 months since. *Jonas Cole* (sworn) says that two years since, one of the Alnage officers seized his goods, when one of the seals was dropt off, which he offered at that time to make oath of. He was forced to pay for sealing again. Since that, they have seized white cloth of his, before it was sealable. *John Deberon* (sworn) says that he is a Scarlet Dyer, and that he never paid the duty now demanded by the farmers till their time. They have imposed 3*d.* upon cloth and ½*d.* on scarlet. They have seized my goods, after being sealed by them, when the seals have dropped off, though I have offered to swear that they have been sealed. I cannot say whether the seals were on them when seized. They exact a duty for scarlet, though the seal had been put to the cloth when white. This has cost me about 10*l.* a year more than the duty upon the white cloth. The trial in the Exchequer went for the farmers. The first Bow dyeing in England was not above 50 years since. We use cochineal in this dye. A London scarlet may be dyed for 50*s.*, for the same I have now 12*l.* *William Van Lule* (sworn) says he is a Scarlet Dyer. He was never demanded a duty for dyeing till these farmers came in. Two years since, they seized his cloths before they were dry, and would not re-deliver them without 10*l.* He believes he pays about 8*l.* or 10*l.* a year more than he ought. *Thomas Rea* says that till these farmers' time he never paid any duty for stockings. They have exacted a penny a score for stockings. For 64 lb. weight in some stockings he pays 3*s.*, for which he should pay but 4½*d.* His goods have been seized that have been sealed, and more than really the weight of the stockings, and they made him pay 5*s.* Another time his stockings were seized after the duty had been paid, and he was forced to pay 3*s.* 6*d.* The officers put on the seals. He knows not whether the last were sealed. *William Hawes* says the officers seized a Bow dye serge of his because it was not sealed, and he had a trial and cast them. From 1664 to 1683 he never knew this duty paid. *John Deagle* (sworn) says that in 1677 two officers came to search his shop, and took down all his cloth, and had 18*s.* of him for seals, though he had paid for all of them before. He has seen them at Blackwell Hall Market seize cloths. *Mr. Trevor* (for the Duchess) says that by the statute 27 Edward III. 4*d.* is paid for scarlet. *Ordered* That the Duchess's witnesses be sworn this day, to be examined tomorrow. (Com. Book, 23 Feb.)

On 24 Feb., L. Cornwallis in the Chair, the Parties are called in. *Counsel for the King* prays that, as the annual value shall be settled,

their Majesties may be considered for their reversion. *Counsel for the Duchess*: What has been alleged is rather clamour than anything else. It is clear the broad cloths are to be measured, and the duty to be paid by the measure. By 27 Edw. III.* every cloth is to pay 4*d.* for subsidy and ½*d.* to the Alnager. A scarlet is to pay 6*d.*; the half grain to pay 5*d.* 17 Rich. II. cap. 2: to make cloths of what length they please, but to pay *pro rata*. A cloth of Assize shall weigh 64 lb. 5 and 6 Edw. VI.; 4 Jac. II.; 6 Eliz. All duties to be paid at the rate of 24 yards for a broad cloth. 36 Eliz.: A patent granted for collecting the duty upon stuffs, called the New Draperies. 3 Jac. I., Coke's 4 Inst., fol. 31; all stuffs to pay by weight. This has been followed by several decrees in the Exchequer. If a cloth be but 16 yards long, it is to pay as if it were 24 yards long. Reads parts of 4 Jac. II. cap. 2 and 27 Edw. III. c. 4. If a cloth be 24 yards long, as to the duty, it is not material what the weight is. We have a decree 26 Eliz. 3 Jac. I. concerning cloths in grain. We have not one duty by encroachment, but we have an Act of Parliament for it. *Counsel against the Bill:* The Statutes do not warrant the inferences these gentlemen would make. Upon trial whether crapes were to pay the duty, it has been resolved they shall pay *pro rata*. Reads Statute 4 Jac. I. *Counsel for the Bill:* 3 Jac. I.; where stuffs are mixt, so as not to be mostly made of wool, no duty is due. No Statute till Edward VI. speaks of weight. The House being set, they withdraw. *Ordered* to acquaint the House with the proceedings of the Committee, that they may receive their further direction. (Com. Book, 24 Feb.)—This report was never made, the House adjourning on 24 Feb. to 12 April. On 23 Feb. the Commons sent a message to remind the Lords of the Bill (L. J., XV. 90), but it dropped with the Session.]

Annexed:—

(*a.*) 17 Feb. Paper endorsed "Duchess of Richmond's Proposals," as follows: "May it please your Lordships. In obedience to your Order, dated Wednesday the 10th inst., whereby it was directed, that the Counsel for the Bill to take away the duties of Alnage should meet with the Counsel for the Duchess of Richmond, to prepare a Clause to be inserted therein, whereby security should be provided sufficient to secure the Duchess of Richmond not only for the present rents reserved to her, but also for a compensation for the remainder of her term, and in case the Duchess should rather be willing to take a sum of money for her whole interest, then the Counsel on both sides were directed to consider what might be a proper sum to be paid for the same, and to prepare their proceedings in writing, to be offered to this Most Honourable House on Monday following by ten of the clock in the forenoon. Your Lordships' Order, in respect of the time could not possibly be complied with, by reason and in default of the Prosecutors for the Bill and their Counsel; though it has been most confidently but untruly since asserted to your Lordships to be the default of the Duchess and her Counsel, as will appear by the oaths of several persons, if required. But may it please your Lordships, in obedience to your last Order, dated Monday last, the Counsel for the Clothiers and the Duchess's Counsel and many persons concerned met, and there proposals and proceedings herein following were made. *Imprimis.* The Duchess, being desirous according to your Lordships' first order, to take a sum in gross for her whole interest, did by her Counsel insist, that she had grants from the Crown of

* 27 Edw. III., Stat. 1. c. 4.

the duties of subsidy and Aulnage for the term of nigh 33 years to come, and that the duties of Aulnage, &c., paid to her and her farmers were 7,350*l.* per annum, clear of all charges whatsoever, to be made appear by their books and rentals. And the Prosecutors and their Counsel, being desired to know what they would give for this interest, did bid 13 years' purchase for the Duchess's whole interest, but refused to allow her interest to be so much as the sum of 7,350*l.* per annum, nor would make any proposition under that computation. But this Proposition they made: That for the present rent reserved to the Duchess, being 3,138*l.* per annum, they would give her 13 years' purchase, supposing that to be the rent reserved to her; and also offered 5,500*l.* for the future interest of the Duchess; and likewise 5,500*l.* more, to be paid to the farmers for their present interest, and this to be paid in ready money before the passing of the Bill. Or they would pay the two proposed fines of 5,500*l.* in ready money before the passing of the Bill, and give security to answer the rent of 3,138*l.* per annum for the remainder of her term, they having the benefit of the duties proposed by the Bill to be paid at the Custom House. And for security that the said rent of 3,138*l.* per annum should be paid during the Duchess's term of 33 years to come, they proposed these persons following, viz.:—

Edward Buller, of Woodalling in Norfolk,
George Ford, now Sheriff of Essex,
James Denew, in Mark Lane, Merchant,
John Smith, of London, Silversmith or Merchant,
Thomas Powell, of Aldersgate, Merchant,
Roger Lillington, of London, Merchant,
Joseph Brookesbank, of London, Merchant,
John Pettitt, of Aldersgate, Draper,
Thomas Dugdall, of Blackwell Hall, Factor,
John Busfield, Cateaton Street, Merchant,

who would give security by Articles and Covenants and Bonds for the performance of the same. And in case of nonpayment, a condition for the Duchess to have the duties proposed by the Bill, but utterly refuse to give any real or other security. The Duchess's Counsel submitted to accept 13 years' purchase for her interest, though insisted upon to be worth more, provided the computation were made according to the annual value of her interest, being, as above mentioned, 7,350*l.* per annum clear of all charges whatsoever; which the Clothiers and their Counsel utterly refused, and would make no proposal at all under that computation. So they differ in respect of the different computation of her interest. The different computation stands thus:—

	£	
The Duchess's interest being - -	7,350	per annum.
Clear of all charges for nigh 33 years to come, at 13 years' purchase amounts to the sum of - - - -	95,550	
	£	
Their offer for the present rent of -	3,138	per annum.
At 13 years' purchase comes to - -	40,794	
In ready money to the Duchess -	5,500	
In ready money to the farmers - -	5,500	
in all	£51,794	

	£	
So that the loss of the Duchess and her farmers, according to the different computations, even at 13 years' purchase only, amounts to - - -	43,756	
The House of Commons proposed to raise to the Duchess, and the Clothiers' printed papers and proposals, before the Bill passed, are to secure - -	5,500	per annum.
Which, at 13 years' purchase, comes to -	71,500	
Which is more than they now propose by	19,706	

Signed W. Thomson. *Endorsed* as read this day. [*See* Notes above.]

(*b.*) 17 Feb. Paper endorsed "Proposals of the Clothiers," as follows: "That the Bill be made to commence from Midsummer or Michaelmas next. And whereas Edward Bullwer, Esq., *George Ford, Esq., etc.*,* have proposed to buy out or farm of the said Lady Duchess her interest in the said duty and subsidy of Aulnage, and have proposed to pay to the said Duchess for her interest of 32 years or thereabout in the said duty, 13 years' purchase, according to the rent now reserved and payable by the farmers to her, or to pay 11,000*l.* to her and take a lease of the duty reserved by this Act at the Custom House during all her term, and interest at and under the same rent that is now reserved to her; Now be it further enacted, That if the said Edward Bullwer, *George Ford, Esq.*, etc. shall not pay to the said Duchess the said sum of 11,000*l.* and 13 years' purchase for the said interest, according to the rent now reserved, on or before the *feast* day of *St. John Baptist or St. Michael the Archangel* next ensuing, or shall not pay the said sum of 11,000*l.*, and seal and execute such lease and security to the said Duchess for the payment of the same rent that is now reserved during all her term, and interest as shall be approved of by *any of or any of the Judges* on or before the *feast* day of *St. John Baptist or St. Michael the Archangel* next ensuing, then this present Act shall cease, determine, and be utterly void, as if the same had never been made; anything herein-before contained to the contrary notwithstanding; And it is further enacted, That in the meantime the duties and subsidy of Aulnage shall be still due and payable as they were before." *Endorsed* as received and read this day. [*See* Notes above.]

(*c.*) 18 Feb. Petition of George Hase, Peter Scott, William Stretton, John Lucas and others. Petitioners, being dealers in worsted manufactures made in Norwich, have for several years past been greatly oppressed by the farmers of the duty or subsidy of Aulnage, who, pretending a duty due for such worsted stuffs, obtained a Decree in the Exchequer in the late reign, by virtue whereof they compelled the payment of a duty in a manner extremely grievous to all dealers therein, which has occasioned divers complaints to Parliament. In the first Session of the last Parliament a Committee, to whom the Norwich Weavers' Petition was referred, resolved that Norwich Worsted Stuffs were not liable to Aulnage, and that the collecting

* The words in italics are later additions in another hand.

HOUSE OF LORDS MSS.

1691–2.

such duty was a great oppression and illegal, and the House, on their report, ordered leave to be given to bring in a Bill to regulate the abuses of the Aulnage in general. The Aulnagers thereupon ceased to collect the duty for about 12 months, but afterwards, in the interval of Parliament, they again demanded a duty, and soon after made several seizures, at the waggons in London, of Petitioners' stuffs to a very considerable value. The duty claimed is not 5*s.* for 100*l.* worth, and though Petitioners have offered to pay whatever they demanded, and are still ready to pay any reasonable fine, the farmers refuse to deliver the stuffs, pretending they are forfeited, although before and since the seizure they have delivered great quantities of stuffs of the same qualities to others on the payment of small fines. Pray for relief against these proceedings. *Signed* by the above named and also by Randolph Bolton, Nath. Beale, Nicho. Chamberlin, Thomas Garrod, and Cowy Chamberlin. John Mottram signs for William Stretton. *Endorsed* as read this day. [MS. Min. No entry in L. J.]

(*d.*) 19 Feb. Account of the clear yearly value of the duties of subsidy and Aulnage on Woollen Manufactures, by a medium taken of three years, viz., 1686, 1687, and 1688.

	£	*s.*	*d.*	The Goods for which the Duty is payable.
Berks	130	0	0	Broad Cloths, Kersies and Serges.
Bucks	30	0	0	Kersies.
Devon	1,500	0	0	Broad Cloths, Bayes and Serges.
Dorset	120	0	0	Broad Cloths, Kersies and Dozens.
Derby	20	0	0	Broad Cloths.
Essex	700	0	0	Broad Cloths, Bays and Perpetuanoes.
Gloucester	600	0	0	Broad Cloths.
Hants	160	0	0	Kersies and Serges.
Kent	30	0	0	Broad Cloths and Kersies.
Leicester	20	0	0	Broad Cloths.
London and Middlesex	250	0	0	Ingrained Cloths, Crapes, Camblets, &c.
Norfolk	400	0	0	Stuffs.
Northampton	30	0	0	Broad Cloths and Serges.
Nottingham	20	0	0	Broad Cloths.
Oxford	35	0	0	Broad Cloths.
Somerset	800	0	0	Broad Cloths and Serges.
Suffolk	250	0	0	Broad Cloths and Says.
Salop and North Wales	120	0	0	Cottons, Flannels and Friezes.
South Wales	25	0	0	Cottons, Flannels and Friezes.
Stafford	20	0	0	Broad Cloths.
Warwick	30	0	0	Broad Cloths.
Worcester	150	0	0	Broad Cloths and Kidderminster Stuffs.
Wilts	300	0	0	Broad Cloths and Serges.
Westmoreland	10	0	0	Broad Cloths.
York and Lancaster	1,600	0	0	Broad Cloths, Kersies and Bayes.
£	7,350	0	0	

[*See* Notes above under date.]

(*e.*) 19 Feb. Printed table of the Subsidy and Aulnage due and payable upon the several Manufactures hereafter mentioned, viz. :—

	d.
Cloths cont. (*torn*) yards -	4½
Half Cloth - - - -	2¼
Cloths cont. 3 yards above the Half Cloth - - - -	4½
Long Cloth from 28 to 36 yards - - - - -	5
Long Cloth from 36 to 44 yards - - - - -	6
Long and Short Cloths of Worcester, each - - -	6
Cloth Rashes - - - -	3
Long Cottons - - -	6
Short Cottons - - -	3
Long Kersies - - - -	3
Short Kersies - - -	2
Colchester Bayes - - -	3
Long Bayes of Bocking, &c. -	6
Short Bayes of Bocking, &c. -	3½

	d.
Bayes of Barnstaple - -	2
Flannel double - - -	2
Flannel single - - -	1
Kidderminsters, double - -	2
Kidderminsters, single - -	1
Petticoats, each dozen - -	1
Long Lyncies - - -	2
Short Lyncies - - -	1
Perpetuanoes, Sayes, Serges, and Shalloons - - -	1½
Camblets, Chenyes, Rugs, broad Norwich Stuffs, Crapes exceeding 8 lb. weight - - - -	1
Narrow Norwich Stuffs - -	0½
Crapes under 8 lb. weight -	0¾
Stockings, for every 64 lb. weight - - - -	4½

And so proportionably for a greater or lesser weight.

[*See* Notes above under date.]

(*f.*) 19 Feb. Acquittances as follows: (5 papers). [*See* Notes above under date] :—

(*f*[1].) Receipt for 10*s.* from Phillip Browne for the duty of subsidy, per agreement, for one year ending 24 June last. *Dated* 11 October 1683. *Signed* per Paul Canham.

(*f*[2].) Receipt for 4*s.* 9*d.* from John Astin for the duty and subsidy of Aulnage for the year and a half last past. *Dated* 26 March 1686. *Signed* Henry Mouncke, Deputy Aulnager. *Endorsed* Mr. Durbain, Draper, Back side, St. Clement. Mr. Smith, Cloth Fair.

(*f*[3].) Receipt for 5*s.* from Mr. Elias Norgate for the duty of subsidy, per agreement, for one year ending 25 December last. *Dated* 4 Jan. 1687. *Signed* per me Paul Canham.

(*f*[4].) Receipt for 2*s.* 6*d.* from Mr. George Bubb, of Stroud, Mercer, being duty for stockings for year ended Michaelmas last, according to a former composition made with him. *Dated* 11 October 1687. *Signed* per me Rich. Yate.

(*f*[5].) Printed form as follows: "These are to certify all Deputy-Aulnagers and others concerned in collecting the duties of Subsidy and Aulnage, that I, Henry Mouncke, Collector of the said Duties in the County of Middlesex and London, have agreed with Mr. Dounes of the same, Hosier, 6*s.* for the said duties due on stockings, caps, socks, waistcoats or other knit-work made of wool, or part of wool, for one whole year ended the 25th day of December 1688, except only such as are sent by him from any part of the kingdom of England, &c. to the City of London. Witness my hand the 12th day of February 1688–9." *Signed* Henry Mouncke.

(*g.*) Printed paper as follows: "These are to give notice to all workers of Crapes, Druggets, Camblets, Hair-Shags (of which the ground is woollen) or any other Manufacture made of wool, or part of wool, within the cities of London and Westminster, the County of Middlesex, or Borough of Southwark; That there

HOUSE OF LORDS MSS.

1691–2.

is a convenient place appointed by the farmers of the Aulnage in Talbot Court, between Gracechurch St. and Little East-Cheap, where a person is and will always be ready to seal such goods as are brought thither, there being no other place appointed for sealing the same; and all such makers are required to bring their said goods to be sealed accordingly at the aforesaid place, from and after Monday next, being the 22nd of this instant. Aulnage Office in Broad Street, Jan. 19, 1682.

534. Jan. 22. Dennis *v.* Scudamore.—Petition and Appeal of Mary Dennis, Widow and Executrix of John Dennis, Esq., deceased. In 1671 George and Milborne Scudamore, as Executors of Lucy Milborne, deceased, brought a Bill in Chancery against Appellant for an account of the moneys raised by the sale of some woods in Monmouthshire, which had been granted to Appellant's late husband by Lucy's father, in trust to raise portions for his children. Appellant, a stranger to the matter, found that not enough had been received to pay the children 200*l.* apiece, but nevertheless, out of kindness, made up that sum to each of them except Lucy, then an infant, whose share also, for the sake of quietness, she afterwards offered to pay. Lucy's Executors, however, not being contented, brought the cause to a hearing, and the Court on 1 July 1678 directed an account, and Appellant, being informed by her solicitor that the Master had reported 145*l.* to be due, gave him that sum for him to pay to Respondents, and expected to hear no more of the matter. Ten years afterwards, however, Respondents obtained an Order of the Court for her to pay the 200*l.*, according to her former offer. This order was subsequently discharged, and another account was directed to be taken. Sir John Hoskyns on 17 March 1690 made an *ex parte* report, charging Appellant with 583*l.*, but certifying that he had not made her any allowances. On 25 May 1691 the Court referred this report back to the Master, who certified on 11 July that Respondents had not evidence to support the report nor Appellant evidence to prove her discharge, but that Appellant prayed a Commission to examine her witnesses in the country. On 28 July the Court ordered Appellant to pay 150*l.* within a week, and directed a further account and Commission to examine witnesses. Appellant brought the 150*l.* into Court, and although she was not limited by this last order to any time for procuring the further report, yet by orders of 28 Nov. and 9 Dec. 1691 the Court confirmed the report of Sir John Hoskyns of March 1690, and ordered the 150*l.* to be paid out of Court to Respondents, with leave to enrol the decree. Appeals from the said decree and proceedings, no allowance having been directed for Appellant's costs. Prays their Lordships to hear the whole matter. *Signed* by Appellant; *Countersigned* by Tho. Trevor and Rich. Holford. L. J., XV. 44. [The Appeal never came to a hearing.]

Annexed:—

(*a.*) 5 Feb. Answer of George Scudamore, Respondent, surviving Executor of Lucy Milborne. Appellant's late husband was made a trustee by Lucy Milborne's father, John Milborne, to receive the profits of his woods for 14 years, or to sell the same and distribute the money equally among his children on reaching the age of 21. Great sums were raised, but the trust was not performed, and John Dennis died with all the moneys in his hands, and the children unprovided for. Respondent and his co-executor refused to accept Appellant's offer of 200*l.*, knowing there was much more come to her late husband's hands. Appellant used every artifice to evade an account, and long

delayed the cause, but the executors at length obtained a report for 583*l.* Appellant is only tenant for life and is almost 100 years old. Lucy Milborne has only received 150*l.* of the 200*l.* confessed to be due. Prays that the Appeal may be dismissed with costs, or at least not heard until Appellant has paid the remaining 50*l.* acknowledged to be in her hands. *Signed* by Respondent. *Endorsed* as brought in this day.

535. Jan. 22. E. Rochester *v.* L. Grey. (Privilege.)—Petition of Lawrence, Earl of Rochester. In Michaelmas term, 36 Chas. II., L. Grey was outlawed for high treason. Afterwards, his Lordship, having obtained favour with the late King James II. to get the outlawry reversed, covenanted on 5 June, 2 Jac. II., by articles between King James, himself and his brother Ralph Grey, within 20 days after the outlawry should be reversed, to convey to Petitioner, Sir John Ernle and Sir Robert Sawyer and their heirs, the manors of East and West Chiveington and other lands in the county of Northumberland, being his fee simple estate, in trust to demise the same to the said L. Grey and his brother for five years, to commence from the Feast of St. John Baptist then next ensuing, at a peppercorn rent, and after the said five years, to stand seized of the reversion and inheritance in trust for the King, his heirs and successors. L. Grey and his brother also covenanted within the said 20 days to demise to the trustees other manors and lands in the counties of Northumberland, Durham, Essex and Sussex, being his entailed estate, for 99 years, to the intent they should redemise the same to L. Grey and Ralph Grey for 98 years at a peppercorn rent, on express trust and condition that they should within one year discharge what remained unpaid of the sum of 16,000*l.*, which by a lease made of all or part of the said estate by the said late King Charles for 21 years, was to be raised and paid, as his Majesty should appoint, and likewise should free and discharge the manors and lands agreed to be conveyed to the trustees and their heirs from the jointure of the Lady Grey and 100*l.* a year granted to Mr. Ireton, and also within five years to pay off and discharge the debts and incumbrances mentioned in a Schedule annexed to those articles (which amount to 10,500*l.*), and all other incumbrances of the said Lord Grey or his father, so as the said manors and lands intended to be conveyed in fee simple might be held and enjoyed absolutely discharged thereof. According to those Articles, in Trinity term 2 Jac. II. the outlawry was reversed, and on 21 June 2 Jac. II. L. Grey by deed enrolled in Chancery, in pursuance of the said Articles, conveyed the fee simple estate to Petitioner, Sir John Ernle, and Sir Robert Sawyer and their heirs, in trust to make the lease for 5 years, and after the expiration of the said term, to stand seized of the reversion and inheritance for the late King, his heirs and successors. On 22 June, 2 Jac. II. the lease for 5 years was made, according to the trust. On 21 June, 2 Jac. II. the demise was made of the entailed estate by L. Grey and his brother to the trustees for 99 years. On 22 June, 2 Jac. II. the redemise was made to L. Grey and his brother of that estate for 98 years, upon the trust and condition mentioned in the Articles. On 4 Jan., 2 Jac. II. the King, by Letters Patent under the Great Seal, granted the fee simple estate to Petitioner and his heirs, and directed Sir John Ernle and Sir Robert Sawyer to release and convey the same accordingly. On 1 and 2 March, 3 Jac. II. Sir John Ernle and Sir Robert Sawyer, by lease and release, granted and released the said manors and premises, and all their estate and interest therein, to Petitioner and his heirs. There remains about the sum of 1,763*l.* still unpaid of the 16,000*l.* charged by the late King

HOUSE OF LORDS MSS.
1691–2.

Charles on the entailed estate of L. Grey, which entailed estate was redemised to L. Grey and Ralph Grey upon express trust and condition to discharge what remained unpaid of that sum within one year; and all the incumbrances remain still undischarged, and the lease of the fee simple estate for 5 years expired on 24 June 1691, but Petitioner is not admitted to the possession of the said estate. Prays their Lordships to take the whole matter into their consideration; and having weighed all the circumstances thereof, as likewise that, of late, Parliaments have sat every year, and when they have not sat, have been continued on by short adjournments and prorogations, so that Privilege has never been out for these three years last past, and probably may so continue for a long time yet to come, at least during the war. Petitioner hopes that it will not be unreasonable in him to pray that L. Grey's privilege may not always be a bar to Petitioner's claim, but that their Lordships will be pleased to make such order herein, that Petitioner in some convenient time, at such distance from hence as their Lordships shall think fit to prescribe, may have leave to try his title at law with L. Grey to the points above mentioned. *Signed* Rochester. L. J., XV. 44. [This Petition was referred to the Committee for Privileges, to inspect precedents of Privilege being disallowed to Peers. The Committee, after considering precedents on 3 Feb. (Priv. Book), reported them on the 6th (L. J., XV. 65. *In extenso*), when after debate, and several things proposed, the House went on with the business of the day, the D. Norfolk's Divorce Bill. (MS. Min., L. J., XV. 65.).]

Annexed:—

(*a*.) 2 Feb. Answer of Ford, Lord Grey. Respondent, it is true, was outlawed for treason upon an indictment, wherein the overt act assigned was for designing to seize the King's Guards, the same for which Lord Russell was indicted and put to death. Thereupon the King granted all his lands in Northumberland, Durham, Essex, Sussex and Middlesex to Richard Graham, Phillip Burton and William Shaw, a servant of Petitioner, for 21 years, for raising 16,000*l.* for Petitioner. In July 1685, Respondent being committed to the Tower, Petitioner sent in haste to his agents in Northumberland, to cut down Respondent's timber, which was done in August, being an unseasonable time, and though 3,600 young oaks were then cut down, and 800*l.* was offered for the bark, if Petitioner would have let them stand till the season of the year, it was so managed, that by the account brought in by Graham and Burton, the money raised by the wood did not pay the charge of felling it. Though Respondent was committed in July 1685, yet, the record of his outlawry being removed into the King's Bench, no rule for execution could be made thereupon till Michaelmas term. In the meantime, L. Lumley (now E. Scarborough) interceding to King James for Respondent's life, it was not opposed at Court, for that by keeping Respondent alive, the 16,000*l.*, which was given to Petitioner, would be received, which on Respondent's death would have been lost. In Michaelmas term following, Graham came to Respondent in the Tower and brought a warrant for his pardon, but together with it, he brought an Indenture (never heard of before) ready engrossed on parchment, between King James and Respondent, being covenants that he should from time to time, at the command of the King, his heirs and successors, convey and assure all his estate whatsoever, as by the Attorney-General should be advised. Respondent was

not in a condition to dispute the sealing of it, but did so, and afterwards his pardon was suffered to pass, and he was set at liberty that term. But his pardon could not restore him to his estate or honour, unless his outlawry were reversed. Whereupon he applied again to the King by L. Lumley that his outlawry might be reversed, which the King was pleased freely to promise, and soon after bade Respondent bring Graham to him, which he did, and the King, in his hearing, ordered Graham and Burton, both being present, to get Respondent's outlawry speedily reversed. But still it was delayed for several months, and, notwithstanding the King's promise and express order from his own mouth, in pursuance of that promise, to both Graham and Burton, yet the King was prevailed upon not to suffer the outlawry to be reversed, until Respondent had first treated with Graham and Burton about conveying to the King all Respondent's fee simple lands, which were 1,640*l.* per annum, and to this, therefore, Respondent was forced to consent. Graham then demanded, further, that these lands must be freed from all incumbrances, which were a jointure of 600*l.* a year, an annuity of 100*l.* a year, and above 10,000*l.* debts, and Respondent must likewise prevail with his brother, Mr. Ralph Grey (to whom the entailed estate, which was 7,000*l.* a year, was to come in remainder) to charge himself and all that estate to discharge the 1,640*l.* a year from all those incumbrances, and to pay off the remainder of the 16,000*l.*, and to enter into covenants and a bond of 140,000*l.* penalty for the performance, so that nothing would serve but the drawing in Mr. Grey (who had not any way offended the Government) into all those hardships; and Mr. Grey was so kind to Respondent as to comply with it. Two of the incumbrances (the jointure and the annuity) it was not only hard, but impossible for Respondent and his brother to discharge, for when all the fee simple lands were to be conveyed away (the rest being entailed), they had no means left in the world to do it, and they were thus compelled to seal all such conveyances as Graham and Burton prepared, and by these means were all the deeds obtained, under which Petitioner can pretend any title to Respondent's estate. Respondent submits to their Lordships, whether, after 16,452*l.* 14*s.* 2*d.* received in ready money of the rents of Respondent's lands, as appears by the account delivered in by Graham, Burton and Shaw, and after 1,000*l.* more paid since by Respondent himself, besides such unseasonable, voluntary and unaccountable waste in cutting down above 3,600 young oaks in a country where timber is very scarce, their Lordships shall think this case deserves such extraordinary favour, that on purpose for the sake of this case, and to help Petitioner to take away 1,640*l.* a year from Respondent, being all the lands of inheritance which he has to pay his debts and to provide for his family (the rest being entailed), their Lordships should make an order to set aside the privilege of Peerage, which is part of the Law of England. *Signed* Grey. L. J., XV. 60.

536. Jan. 25. Interest of Money (Reduction) Bill.—Commons' Engrossment of an Act for lessening the interest of Money.

Clause 1. "Forasmuch as the abatement of interest from ten in the hundred in former times hath been found by notable experience beneficial to the advancement of trade and improvement of lands by good husbandry, with many other considerable advantages to this nation, especially the reducing of it to a nearer pro-

HOUSE OF LORDS MSS.

1691–2.

portion with foreign States with whom we traffic; And whereas the abatement of interest from eight to six in the hundred hath found the like success, to the general contentment of this nation, as is visible by several improvements; And whereas it appears by daily observation, that in all parts of the world, where interest is lowest, there trade flourisheth most: Be it, for the reasons aforesaid, enacted by." The rest agrees with Section i. of the Act of 1713 (13 Anne, c. 15. Fol. Ed.), except in reading 25 March 1692 for 29 September 1714.

Clause 2 agrees with Sect. ii. of the Act, except in reading ("banker and bankers") after ("Scriveners"), giving the date as above, and omitting the words ("over and above the Stamp Duties") and the words ("with costs of suit"), besides three other unimportant variations.

Clause 3. "Provided always and be it enacted by the authority aforesaid, that nothing in this Act shall extend or be construed to extend to any person or persons who shall lend to their Majesties any sum or sums of money."

Parchment Collection. [Brought from the Commons this day; read 1ª 28 Jan. (L. J., XV. 49, 53). There is no record in Com. Book of any proceedings of the Select Committee, to whom the Bill was referred on 1 Feb. (*ib.* 56), and it dropped with the Session, after a Message from the Commons on 17 Feb. to remind the Lords of the Bill. (*Ib.* 81.)]

537. Jan. 25. King's Bench Court (Malicious Informations, &c.) Bill.—Commons' Engrossment of an Act for the better preventing malicious Informations and for the more easy reversal of Outlawries in the Court of King's Bench. With a few purely verbal differences, the Bill is identical with the Act of 1692 (4 W. & M. c. 18. Fol. Ed.), except in the following passages, where the Act omits the words in square brackets, and adds those in italics:—

Sect. i. of Act:—

Line 9. . . . of the persons outlawed [in the said Court], so that . . .

„ 13. . . . after the [twelfth] *first* day of [February] *Easter term which shall be* in the year of our Lord one thousand, six hundred and ninety [one] *three* * . . .

„ 15. . . . shall not *without express order to be given by the said Court in open Court* exhibit . . .

„ 17. . . . persons [prosecuting] *procuring* such information . . .

„ 18. . . . abode, title, [trade] or profession . . .

„ 32. . . . costs, *unless the Judge, before whom such Information shall be tried, shall at the trial of such Information in open Court, certify upon Record that there was a reasonable cause for exhibiting such Information;* and in case . . .

„ 34. . . . within [one month] *three months next* after . . .

Sect. iii.:—

Line 9. . . . sufficient [security] *surety* or [securities] *sureties* . . .

Sect. v. is wanting in the Bill.

Sect. vi.:—

Line 4. . . . within [six] *five* months . . .

The Bill concludes with the following Clause, not in the Act, viz.:—

Clause 6. And be it further enacted by the authority aforesaid, that if the Clerk of the Crown of the said Court of King's Bench for the time being shall at any time after the said twelfth day of February exhibit, receive or file any Information for any the Causes aforesaid, before he shall have taken or received such Recognizance as by this Act is directed, he shall forfeit and pay to the person or persons so informed against one hundred pounds, to be recovered by such person or persons by Bill, Plaint or Information in any of their Majesties' Courts of Record at Westminster, wherein no privilege, protection or wager of law shall be admitted, nor any more than one Imparlance.

Parchment Collection. [Brought from the Commons this day; read 1ª 13 Feb. (L. J., XV. 49, 74). The Select Committee on the Bill (*ib.*

* This variation of date occurs throughout the Bill.

76) met on 17 Feb., M. Halifax in the Chair, and on 19 and 20 Feb., L. Cornwallis in the Chair, but in each case apparently only to adjourn, the adjournment on 20 Feb. being till the 22nd (Com. Book). Nothing further recorded. The Commons sent a Message on 20 Feb. to remind the Lords of the Bill (L. J., XV. 85), which dropped, however, with the Session.]

538. Jan. 27. Bishop of St. David's (Privilege).—Petition of several gentlemen signing on behalf of their country. Dr. Thomas Watson, the present Bishop of St. David's, who has been excepted and exempted from pardon out of the late Act of Pardon and Indemnity, has declared in the presence of several persons that he esteems the same as a great honour. His Lordship has since been presented by the Grand Jury for the body of the county of Brecon within his Lordship's diocese at the last Great Sessions held in and for the county upon full evidence to be guilty of extortion for taking excessive fees for a collation of Mr. Jer. Griffith to the vicarage and prebend of Clans and Freed in the diocese of St. David's, and others within the said diocese will be proved against him. His Lordship has also committed divers crimes and misdemeanours against the law, besides acts of oppression and covetousness, not becoming his function or dignity, to the great prejudice and ill example of the clergy of his diocese. Pray for leave to prosecute his Lordship, in spite of his privilege. *Signed* by Richard Rudd, of Aberglaseney, M.P. for the County of Carmarthen; John Lewis, of Coldmaur, in Cardiganshire; John Vaughan, of Place Gwynne; William Brigstock, of Llachdunny, in Carmarthenshire; P. Powell, of Castle Madock; and William Williams, of the Battle, in Brecknockshire.* [The Petition being read this day, the House ordered the Bishop to have a copy and put in his answer. *The Bishop* was heard, and declared that as to the extortion he would not stand on his privilege. (L. J., XV. 52. MS. Min.).]

Annexed:—

(*a*) 5 Feb. Answer of Dr. Thomas Watson, Lord Bishop of St. David's. Denies and protests against the truth of the matters contained in the Petition. He acquiesced with all humble submission in the wisdom of Parliament, and always thought it a great misfortune to be excepted from the Act, but not being conscious that he had done anything which merited that exception, he hopes it will always appear, notwithstanding the malice of some persons' prejudice against him, that he had no more pretence or need of pardon or the benefit of that Act than many others not excepted, and is confident he never declared what is falsely charged, or anything like it, unless his owning a most grateful and just sense of the favour and honour many noble Lords did him upon that occasion by mistake or malice be misinterpreted. He utterly denies he is guilty of any extortion whatsoever, and doubts not that he shall justify himself against that malicious accusation in a proper course of law. The charge in the last part of the Petition is not only false and scandalous, but so general that it is impossible to answer in defence, because no particulars are given as to person, time or place. The Petition was subscribed or pretended to be subscribed by persons, some of whom were not in town when it was altered or amended, or supposed to be delivered. He neither has nor had acquaintance

* The Subscribers to the Petition were ordered first to add their designations (L. J., XV. 57), and afterwards to attend and certify their signatures (*ib.* 66.)

or dealings with any of them, or knows the face of some of them, who therefore cannot be supposed privy or knowing the matters objected to be true. No oath was made by them or any other of the matters in the Petition before presenting it, which he conceives is very irregular, and the method of getting hands to Petitions of that nature is of dangerous consequence, and may blast the reputation of the most innocent, without any warrant or colour of law. He never insisted on Privilege in any particular mentioned in the Petition, nor does he insist on it, and as he would not be devested and so delivered to the will of his enemies, he solemnly promises never to insist on his Privilege but with submission to their Lordships. *Endorsed* as brought in this day. *Signed* Tho. Menev.

539. Jan. 27. Accounts Commissioners' Bill.—Result of Ballot for Commissioners under the Bill. The following are the names and numbers of votes :—

Alexander Davenant -	36	John Farthing - -	9
Mr. Hampden, Junr. -	39	Sir William Russell -	1
Sir Cyril Wych - -	35	Mr. William Bridges -	1
Sir Benjamin Bathurst -	4	Sir John Houblon -	2
John Wildman - -	11	Mr. Walter Coventry -	2
Abraham Houblon* -	2	Mr. Thomas Dear -	3
Sir Thomas Meres -	2	Sir Gabriel Roberts -	3
Sir Elias Harvey -	22	Duke Williams - -	6
John Mitford - -	34	Albean Chaire - -	5
Thomas Shales - -	1	George Greenvill -	1
Thomas Colson - -	10	John Harvey - -	1
William Dockery -	1	Henry Pagett - -	1
Sir Philip Meadows -	39	James Farrington -	1
John Hoskins, Esq. -	10	Thomas Munne - -	3
James Houblon - -	7	Sir Peter Vandeput -	1
Sir Peter Paravicini -	1	John Walker - -	6
Sir John Champante -	29	Sir John Mitford -	1
Mr. Henry Griffith -	1	Mordecai Abbott -	1
Sir Henry Furnace -	3	John Brockett - -	1
John Shales - -	2	Dr. Danvers - -	1
Mr. Heriott - -	1	Michael Godfry - -	1

Endorsed as reported this day. [The Bill intitled "An additional Act for appointing and enabling Commissioners to examine, take and state the public Accounts of the Kingdom," was brought from the Commons on 19 Jan. (L. J. XV., 37.) In Committee of the whole House on 20 Jan., L. Cornwallis in the Chair, after agreeing to the Title and Preamble and reading the Clauses to the middle of Press 5,† progress was reported. (MS. Min., L. J., XV. 39.) On 23 Jan. House again in Committee, L. Cornwallis in the Chair.

First enacting Clause postponed.

Next Clause read as to the quorum. Postponed, and the Clause passed.

Next Clause agreed.

The other Clauses read and agreed to the end of the Bill.

Postponed Clause (1) read as to the number of Commissioners or adding others. *Moved* that there should be an addition of 4 Commis-

* Wrongly spelt "Hubland" here and elsewhere in the List.

† The Bill itself is not among the records, having been delivered to the Commons at the last Free Conference on 10 Feb. (L. J., XV. 70.)

sioners to the Bill, the Commissioners not to be of the House of Commons. *Agreed to.* *Agreed* that on the 25th every Lord do bring a paper of names for a Balloting Box, and 6 to be the Quorum throughout the Bill.

House resumed. *L. Cornwallis* reported as in L. J., XV. 45. *Ordered* accordingly. (*Ib.* MS. Min.).—On 26 Jan. Select Committee appointed to examine the Ballot. (MS. Min., L. J., XV. 50. No proceedings in Com. Book.)—On 27 Jan. *L. Cornwallis* reported from the Select Committee that the greatest number had fallen on (1) Sir Cyril Wych, 35 ; (2) Sir Philip Meadows, 39; (3) Mr. Hampden, 39 ; (4) Mr. Davenant, 36; and that if Mr. John Mitford, who has 34 votes, is the same as Sir John Mitford, who has 1, then the ballots are equal between Sir Cyril Wych and Mr. Mitford. *Agreed* that Sir Cyril Wych be a Commissioner, and that the 4 Commissioners before-mentioned be added as an amendment to the Bill. *Moved* to re-commit the Bill, and that one Clause in Press 6 may be amended in order to explain that Clause. After debate, *Question* put: Whether the Clause that has been read shall be amended, in order to the explanation of it? Resolved in the *Negative*. Contents, 26 (including 7 Proxies); Not-Contents, 26 (including 3 Proxies). Tellers, L. Cornwallis and L. Godolphin. *Semper presumitur pro Negante.* (MS. Min., L. J., XV. 52.)—The Commons having disagreed to the Lords' Amendments, with Reasons reported from a Conference on 1 Feb. (L. J., XV. 57, *In extenso*), the Lords, the next day, negatived, without a division, but with a Protest, the question for agreeing with the Commons (MS. Min., L. J., XV. 59), and gave Reasons (L. J., XV. 62) at another Conference. A Free Conference being had and reported (*ib.* 63), after an adjourned debate on the report on Feb. 9, it was *Moved* that the Lords should adhere to their amendments. After debate, *Question* put: Whether this House shall agree with the House of Commons? Resolved in the *Negative*. Contents, 24; Not-Contents, 33. Tellers, E. Pembroke and E. Bridgewater. Then, after further debate, *Question* put: Whether this House will adhere to their amendments? Resolved in the *Affirmative*. Contents, 32; Not-Contents, 21. Tellers, E. Westmoreland and E. Clare. (MS. Min., L. J., XV. 68.)* After another Free Conference on 10 Feb. (MS. Min., L. J., XV. 70), the Bill dropped.]

540. Jan 27. Birmingham Free School Bill.—Draft of an Act for the better regulating and settling the Free School of Birmingham, in the county of Warwick and the revenues thereof. The Preamble recites as follows: "Whereas King Edward VI. by his Letters Patent, bearing date at Westminster the 2nd day of January in the fifth year of his reign, founded a free Grammar School in Birmingham, in the County of Warwick, by the name of the Free Grammar School of King Edward VI., for the education, institution and instruction of boys and youths in grammar, with one schoolmaster and one usher, to endure for ever, and endowed the said School with divers houses, lands, tenements and hereditaments then of the yearly value of 21*l.*, and appointed twenty inhabitants of the town, parish, and lordship of Birmingham aforesaid (whom he incorporated for that purpose) and their successors, to be Governors of the possessions, revenues and goods of the said School ; since which time the number of inhabitants of the said town, parish and lordship of Birmingham is so much increased, that

* Luttrell, under date, has the following : "The Lords divided on the Bill for the public accounts: 33 were for adhering, and 24 not, which in all probability will lose the Bill."

House of Lords MSS. 1691-2.

there is occasion for more masters to be added to the said School, and the revenues of the said School are so much improved, as to be sufficient to maintain more masters, but cannot be applied to such purposes, because they are wholly appropriated by the said Letters Patent to the maintenance of the said schoolmaster and usher; *and since the said School was erected and founded at the request of the neighbouring gentry and for the convenience of the education of their children as well as for the benefit of the town of Birmingham; For the better regulating therefore and settling* * the said Royal Charity for the future, and for preserving the same from any misemployment." The Bill enacts as follows: The School shall have one schoolmaster and one usher, for the instruction of boys and youths in grammar, and in Greek and Latin, and one master for teaching English, and one for teaching writing and accounts. The grammar master shall be at least a Master of Arts, and the usher a Bachelor of Arts, of one of the Universities, and both of them shall be well learned and skilled in Latin, Greek, Geography and Chronology, and the English master and writing master shall be competently learned and skilled in grammar, and particularly in orthography; and all the masters shall be men of piety, gravity and sober conversation. And for the better government of the School and its revenues, and for quieting and preventing the many disputes that have already happened, and are otherwise very likely to arise, concerning the election of the Governors, the Bill enacts that the Governors shall from henceforth be elected as well out of the nobility, gentry and clergy dwelling within ten miles of Birmingham, as out of the inhabitants of the town, parish and lordship of Birmingham, and that (*blank*), being persons of that description, shall be Governors for life and execute all the powers granted by the Letters Patent, and purchase and possess any lands, tenements, &c. to them and their successors, not exceeding the yearly value of 200*l.*, over and above the lands, tenements, &c. granted to the School or any Governors thereof, and receive and enjoy any sum or sums not exceeding 2,000*l.* The Governors shall choose one of their number as President, who shall hold office for three years, and have power to call or dissolve any meetings of the Governors. (*Blank*) Governors, besides the President, shall constitute a quorum, the majority to decide, and in case the numbers are equal, the President to have a casting vote. In case of the death, resignation or removal beyond 10 miles from Birmingham, of any President or Governor, and after the President has served three years, the Governors shall choose a President out of their own body, and shall also elect a new Governor or Governors, properly qualified, the President to hold office for three years and the Governors for life. The Governors shall, as often as they shall see fit, or there shall be a vacancy, appoint a schoolmaster, usher, English master and writing master at such salary as they shall think fit; and shall make rules for their government, and for disposing of the revenues; and shall have sole power of visiting the School, reforming abuses and suspending masters; any differences between them and the masters to be determined finally by the President. All the property belonging to the School is vested in the Governors, upon trust to apply the same in the first place to the maintenance and salaries of the masters and usher, the surplus, if any, to be expended in

* The words in italics are substituted for the following: "And since inconveniences have been found to arise from limiting the government of the said School to the inhabitants of the town, parish and lordship of Birmingham, exclusive of the neighbouring gentry, upon whose Petition and for whose benefit, as well as of the said inhabitants of Birmingham, the said School was first founded; for remedy whereof, and for the better regulating and settling."

building and repairing the School-house and dwelling-house for the masters and usher, and for maintaining one or more assistant or assistants, and in furnishing the library lately erected, and in raising a stock for any other emergent occasions and pious and charitable uses tending to the promotion of learning. And for the better enabling the Governors to receive and apply the rents and revenues now belonging to the School to the said uses, the Governors shall enjoy all and the same advantages against any lessees of the School lands, by entry, for nonpayment of rent reserved, on any leases made by former Governors, or for waste or other forfeiture, and all and the same benefit and remedy by action for not performing any other conditions, &c. contained in the leases, as the Governors who made the leases might have had; and the Governors constituted by this Act shall not be obliged to set forth the special matter in any suit to be commenced for or by reason of such entry, conditions, &c., but shall plead as if such leases had been made by themselves, and give this Act in evidence. Provided that (*blank*) shall be the first President, and shall continue in office three years from (*blank*), and that the President and Governors appointed by this Act and their successors shall, before entering on office, take an oath in Chancery not to take any undue advantage of their office but faithfully to administer their trust. The Act ends with the usual saving clause. [Read 1ª this day. House *Moved* to reject the Bill. After debate,* *Moved* to hear both sides at the Bar as to the mismanagement of the Governors. Then, on *Question*, it was ordered to hear Counsel on 10 Feb., before the second reading. (L. J., XV. 51; MS. Min.) This Order was set aside on 6. Feb., when the Bill was, on motion, withdrawn. (L. J., XV. 65; MS. Min.) The MS. Min. of 19 Feb. contains this entry: "A Petition of the Old Governors of the Free Grammar School" (*sic*).]

541. Feb. 1. Writ of Summons (Bp. of Lincoln).—Writ of Summons to Thomas [Tenison] Bishop of Lincoln. *Dated* 28 Jan. 1691–2. [Took the Oaths this day. L. J., XV. 56.]

542. Feb. 1. Quakers' Evidence Bill.—Amended† draft of an Act to impower the High Court of Chancery and the Court of Exchequer to accept of the solemn answer or evidence of any of the people called Quakers. [Whereas it is evident that there are several of their Majesties' subjects, commonly called Quakers, who being summoned in due course of law to give answer or evidence upon their corporal oaths in the several causes depending in their Majesties' Courts of Chancery and Exchequer, or before Commissioners or persons thereunto belonging, empowered to tender an oath, who find matters of scruple in those oaths; by means whereof the proceedings in the said Courts and before such Commissioners and other persons empowered, are often obstructed and the merits of the cause not searched out, so that the truth of the matters cannot legally be made appear, but suits and controversies are continued and prolonged to the great damage of their Majesties' subjects, For remedy whereof, and that justice may have its due course] *For the better proceeding in all causes other than criminal in the Courts of Chancery and Exchequer:* Be it enacted by the King and Queen's Most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, That from and after the *twenty-fifth* day of *March*, one thousand, six hundred and

* This motion is expunged in MS. Min.

† The additions are shown by italics, and the omissions by square brackets.

HOUSE OF LORDS MSS.

1691–2.

ninety-two, if any person or persons whatsoever, being subject or subjects of the Kingdom of England, Dominion of Wales, and town of Berwick-upon-Tweed, commonly called or reputed Quakers, who shall first produce a certificate under the hands and seals of six or more sufficient or credible men of the congregation or society unto which he, she or they do belong, [and] *owning him, her or them to be and* to have been [so owned and reputed] *of such Congregation* for twelve months before the date of such certificate, *and also shall produce one other certificate of his, her or their having made and subscribed the Declarations and profession of his, her or their Christian belief mentioned in the Act made in the first year of their Majesties' reign, intituled An Act for exempting their Majesties' Protestant subjects, dissenting from the Church of England, from the penalties of certain laws, And shall also make and subscribe the said Declarations in the respective Courts, where he, she or they shall give his, her or their answer or evidence before he, she or they be admitted thereunto,* shall be required to give answer or evidence, or to inform either the Courts aforesaid in any cause of the whole truth of the matter depending, to the best of his, her or their knowledge; That then he, she or they shall be required and admitted to repeat and subscribe his, her or their answer before a Master or Commissioner for that purpose in these words following: I, A.B. do sincerely and solemnly [in the fear of] *before* God *declare and* affirm that what is herein contained in answer to the Bill above mentioned that concerns myself is true. Or, in case of evidence, in these words: I, A.B. do sincerely and solemnly *declare and* affirm [in the fear of] *before* God, That what I shall give in evidence in the case depending, shall be the truth, the whole truth, and nothing but the truth to the best of my knowledge. And that such his, her or their solemn answer and evidence shall be taken and deemed to be of the same force and virtue, *in all causes other than criminal,* to all intents and purposes as if he, she or they had taken the oaths usually required.

And be it further enacted by the authority aforesaid, That if any such person or persons shall in his, her or their answer, denial or evidence, so solemnly made or given in either of the said Courts, wittingly or wilfully affirm or deny anything contrary to the truth, by his, her or their said answer, affirmation, denial or evidence so given as aforesaid, That in such case, he, she or they so offending shall be liable to be prosecuted and suffer as in cases of perjury, and being thereof duly convicted, shall undergo such pains and penalties as are by law provided against persons convicted of perjury. [Read 1ª this day, L. J., XV. 56. The Bill was considered and amended in C. W. H. on Feb. 10 and 12. (*Ib.* 70, 73.) On Feb. 12 it was *moved* that the Quakers shall not have the benefit of this Act before they take the Declaration in the Act of Toleration.* (MS. Min.) The Bill was rejected in the Commons on 22 Feb., after the question for committing it had been negatived by 103 to 73. (C. J., X. 682.) Compare the Lords' Bill of 15 Nov. 1690 (No. **328** in last Calendar), which evidently formed the groundwork of the above.]

543. Feb. 2. Cole *v.* L. Stawell and others.—Petition of John Cole, Esq. Petitioner, on his marriage in 1677 with Susanna, widow of George Gray, who left issue by her Christian, Margaret, and Jane, settled on her as jointure, with remainder to their sons in tail, an estate t Wichampton, Dorset, worth 300*l.* a year, subject to a mortgage to

* This motion is expunged in MS. Min.

Francis Tilney for 1,400*l.* Differences arising between them, in consequence of her endeavouring to conceal from him her personal estate, Ralph, father of the present L. Stawell, paid off the mortgage with her money, and, as alleged, with 160*l.* of his own, and took an assignment, without Petitioner's consent, conditioned for payment of 1,930*l.* Petitioner having brought a Bill in Chancery to redeem and account with L. Stawell, the L. Keeper North on 17 Nov. 1684 decreed accordingly, and ordered L. Stawell, on being paid what was due to him to assign to Petitioner, and on payment of the then other Defendants' two-thirds of their father's personal estate, fitting allowances being made, to deliver to him his bond of 3,000*l.* to L. Stawell. On 30 May, 1685, the Court, on Defendants' petition, ordered that the mortgage should not be assigned on payment of what was due only to L. Stawell, but should remain a security for the children, for the said two-thirds of their father's personal estate, which the Master reported to amount to 2,345*l.*, including interest from a year after their father's death and five years before Petitioner's marriage. Petitioner having taken exceptions as to interest, it was ordered that he should be charged with such interest only as was made and received before marriage, as to which, on special reference from the Master, the evidence of his wife was disallowed. Petitioner complaining that Defendants, being in possession of his estate, purposely delayed procuring a Report, the Court, on 18 Oct. 1688, ordered possession to be restored to him, on his tendering 343*l.* 8*s.* 0*d.* for L. Stawell's debt and 1,079*l.* for the children's, which order was enrolled on 26 Oct. 1688. This enrolment was set aside by the Lords Commissioners on 5 March 1690,* and the Master, on reference, reported interest due for the children from a year after their father's death, which report was confirmed by a Decree on 18 Jan. 1691. Appeals from the last two Decrees, because (1) the enrolling of the Orders of Oct. 1688 was regular and ought not to have been set aside without a Bill of Review; (2) Petitioner's estate, settled on his son, will be charged with more than 1,400*l.* and interest, which was the mortgage on it at the time of the settlement; (3) Petitioner's estate is charged with interest for five years before his marriage, though his wife was then only administratrix, and no proof of any interest made thereof, nor fitting allowances for the child; (4) no allowance is made to Petitioner for the profits received by L. Stawell out of his estate for the benefit of his children. Prays that the Decrees may be reversed, and that L. Stawell, as trustee, and Edward Topp, and Christian his wife, and Margaret and Jane Gray may be ordered to answer,† and proceedings meanwhile stayed. *Signed* by Appellant; *Countersigned* by Tho. Powys and R. Arnold. L. J., XV. 59. [The Appeal, after being revived in the name of L. Stawell's Executors (Annex (*d.*) below), was heard on 11 Jan. 1692–3. *Sir Thomas Powys* (for Appellant) opens the case. We have not all the parties. *Mr. Finch* (for L. Stawell): It is necessary to have the representative of John, L. Stawell before the House, and she is here, the Lady Stawell. The persons that have the interest in the mortgage money are all here. The quantum of the money is only before your Lordships, and the persons concerned are here. *Mr. Jennings* (for Appellant): We want a party, and an administrator is wanting. The Bill in Chancery read to show that there was an assignment. Counsel withdrew, and *the Speaker* stated the case as to proper parties or not. Counsel called in again, and the Speaker acquainted them, by order of the House, that the House would be satisfied, if the Will of

* 2 Vernon, 219, 296.

† "Service of Cole's Clerk in Chancery to be good service" (MS. Min. 19 Nov.).

HOUSE OF LORDS MSS. 1691–2.

Ralph, L. Stawell be material, why you do not produce it? *Sir Thomas Powys:* We thought they would have produced the Will. We assert there has been no delay in this business. *Mr. Finch* and *Mr. Dobyns* are heard. Counsel withdrew again, and after debate concerning the supposed delay on the Appellant's side, the House was informed that the Will was in a Trustee's hands at the door. Counsel called in again. *Mr. John Hunt** (sworn), asked if that was a true copy of the Will. He says "Yes, and according to the Will we assigned all over." *Sir Thomas Powys* (for Appellant) went on to open the Cause. This was subject to the mortgage of Tilney for 1,500*l.* (States the Account and how it stands.) The Cause was heard on 17 Nov. 1684, and a reconveyance. In May 1685 a Petition referred to L. Keeper North. Upon the Petition, it was ordered that our land be subject to a new debt, without hearing. *Mr. Jennings* (for Appellant): Mrs. Cole upon the marriage was possessed of the estate. We entered into a bond of 3,000*l.* security to perform our part. It was heard upon the Master's Report, which they will say was made *ex parte*. We hope we ought to be relieved in this matter. (They read the Decree and what was done upon the Petition subsequent.) *Mr. Finch* (for L. Stawell): This is a strange case. Here in 1688 an Order is got behind our backs. Where he got it, I cannot imagine. They do not say when it was signed and enrolled. It was after the L. Jeffreys was absconded. They are not decreed to pay one penny interest before the Decree. Every farthing of the money was paid by the L. Stawell. *Mr. Dobyns* (for L. Stawell): Their own exception is only to 60*l.*, and that the children's money went to pay off Tilney, and we will read to this. (Depositions of Henry Backway, &c., read.) We have several other witnesses to prove several sums. *Sir Thomas Powys* and *Mr. Jennings* are heard in reply. Counsel withdrew and Speaker reported. Decree affirmed with 40*l.* costs. (MS. Min., L. J., XV. 179.)]

Annexed:—

(*a.*) 25 Feb. 1691–2. Answer of the Right Hon. John, Lord Stawell, Edward Topp, Esq., and Christian his wife, and Margaret and Jane Gray, Infants, by Lord Stawell their guardian. George Gray, late of Nether Stavey, co. Somerset, died intestate, leaving a considerable estate, which was administered by his widow, who put out her children's two-third parts to interest at 6 p.c. Appellant, her second husband, ill-treated her for refusing to let him take the daughters' two-thirds, but afterwards consented to give the late L. Stawell, their relative, a bond of 3,000*l.* not to meddle with the money, then amounting to 1,770*l.*, which he agreed should be called in and paid, together with 160*l.* of L. Stawell's own money, to redeem the 1,930*l.* due to Tilney, who should then assign the mortgage to L. Stawell, which was done accordingly in 1681. Appellant afterwards turned his wife and daughters out of doors, and has ever since lived separate, without maintaining them. The Decree of 30 May 1685 ordered that the account should be taken distinctly as to L. Stawell, and that the children's two-thirds should be secured on the mortgage, which, on payment of all, L. Stawell was to assign to Appellant. The enrolment of the Decree was obtained irregularly by Appellant, amidst the great consternation, when L. Chancellor Jeffreys was hard to be found. After the Government was again settled, Respondents moved the Lords Commissioners, who on 13 May 1689 ordered Master Keck to look into

* *Noted* in margin: A member of the House of Commons.

the proceedings as to the enrolment, but before his report was heard, the late L. Stawell died, and Respondent Christian married Edward Topp, whereby the proceedings abated. They were revived in 1690, when the Lords Commissioners, after a full hearing, discharged the Orders of 1688 and restored possession of the mortgaged premises to L. Stawell. Appellant absconding himself, Respondents obtained an injunction against him and his tenants, to put L. Stawell in possession, and a writ of assistance was afterwards issued to the sheriff for that purpose. Appellant's exceptions to the Master's report were overruled on 18 Jan. 1691, and the report absolutely confirmed. The mortgaged estate was never settled in jointure on Appellant's wife with such remainders in tail as are alleged, and if Appellant ever made such settlement, it was without his wife's consent, and cannot affect the mortgage. There never was any agreement to pay off the mortgage with the wife's own money, nor did she ever do so. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Wm. Coward. *Endorsed* as brought in this day.

(*b.*) 23 Nov. 1692. Petition of Appellant that the hearing may be postponed, his chief agent in managing the cause, John Jenkins, having gone to Ireland. L. J., XV. 123.

(*c.*) 22 Dec. 1692. Petition of Appellant. The Appeal has abated by the death of the Respondent L. Stawell, and the Decrees and Orders appealed from have to be revived below. Petitioner is advised that he had good cause of appeal against his Lordship, not only as trustee, but also in his own right, to which the Appeal did not extend, by reason of his Lordship's privilege. Prays for leave to amend his Appeal. L. J., XV. 162.

(*d.*) 7 Jan. 1692–3. Petition of Appellant. Recites proceedings below as in his Petition of 2 Feb. 1691–2. Appeals from the Decrees previously complained of. Prays that they may be reversed, and that Edward Topp and Christian his wife, and Jane Gray and (inasmuch as Ralph, Lord Stawell and John, Lord Stawell, his executor, are both dead) the Lady Stawell, administratrix of John, Lord Stawell may be ordered to answer, and proceedings stayed meantime. *Signed* by Appellant; *Countersigned* by Tho. Powys and Richard Arnold. *Endorsed* as brought in this day. No entry in L. J. or MS. Min.

544. Feb. 2. Mitchell *v.* Metcalf.—Petition and Appeal of Daniel Michell (*signs* Michel). Respondent brought a Bill in Chancery against Appellant, co-executor with Respondent of John Michel, to discover the estate supposed to be in Appellant's hands, and to answer in particular to a debt of 335*l.*, whether it was not paid to him by the testator. Appellant answered that he had a Bill from testator for that sum, being a just debt due to him, exclusive of any other account, and that he had never any other satisfaction for the same, save only 80*l.*, for the recovery of which he expended 10*l.* The Lords Commissioners on 25 Jan. last decreed Appellant to deliver in the Bill for the payment of the said money in absolute discharge of the same, with costs. Prays that this Decree may be reversed, and Respondent ordered to answer. *Signed* by Appellant; *Countersigned* by C. Weeden and G. Duncombe. L. J., XV. 59. [The Appeal was heard and dismissed with 10*l.* costs on 20 Feb. (*ib.* 85). *Sir Francis Winnington* and *Mr. Weeden* were heard for Appellant, and *Mr. Trevor* and *Mr. Freeman* for Respondent. **(MS. Min.)**]

HOUSE OF LORDS MSS.
1691-2.

Annexed:—

(*a.*) 11 Feb. Answer of William Metcalfe.—The testator gave 600*l.* to Appellant for a legacy, and after that and some other legacies paid, devised the surplus of his estate to his executors, and died about 20 years since. Appellant thereupon possessed himself of all or the greater part of the estate, and refused to pay a moiety of the surplus or account to Respondent, his co-executor. The debt claimed is on a pretended note under testator's hand, about 26 years ago, and there is no proof of any demand thereof in the lifetime of testator, who died leaving no debts unpaid. The Court below was satisfied that Appellant's debt was long since paid. Prays that the Appeal may be dismissed with costs. *Endorsed* as brought in this day.

545. Feb. 4. Cattle Bill.—Amended* draft of an Additional Act to prevent butchers from selling live cattle. Whereas by an Act made in the 15th year of the reign of King Charles II., it is enacted that no person using the trade or mistery of a butcher should at any time after the Feast of St. Michael the Archangel then next ensuing, sell, offer or expose to sale in any market or elsewhere, either by himself or any servant or agent whatsoever, any fat oxen, steers, runts, kine, heifers, calves, sheep or lambs alive, upon pain to forfeit the double value of the cattle so sold or offered or exposed to sale as aforesaid; which law has not wrought such effectual reformation as was intended, by reason of the length of time that is required for the due prosecution thereof; Wherefore be it enacted by the King and Queen's Most Excellent Majesties, etc., That if any such person or persons using the trade or mistery of a butcher as aforesaid do, or shall at any time after the *twenty-fourth* day of *June* now next following, commit any offence or offences prohibited by the said Act, that then, if any such offence or offences shall be proved upon oath by two or more sufficient witnesses, or by the confession of the parties offending before any Justice of Peace, Mayor or other head officer of any city or town corporate in their several limits respectively, wherein such offence shall be committed, who are hereby severally empowered to administer an oath or oaths to such witness or witnesses accordingly, every such forfeiture or penalty shall and may be levied by any constable or churchwarden by warrant from any such Justice or Justices of Peace, Mayor, or other head officer as aforesaid, within their several limits, where such offence shall be committed or done, by distress and sale of the offenders' goods, rendering to the party the overplus, all charges in levying the same being first deducted.

And be it further enacted by the authority aforesaid, That such penalties and forfeitures, so levied as aforesaid, shall be paid by the officer, who shall levy the same as aforesaid, to the party or parties complaining or informing of such offence or offences done as aforesaid.

Provided always that it shall be lawful for any constable or churchwarden that shall have any suit or action brought against *him or* them for any distress by them or any of them, to be taken by force of this present Act, to plead the general issue and to give the special matter in evidence; *And if the Plaintiff or Plaintiffs shall become nonsuit or forbear further prosecution or suffer discontinuance, or if a verdict pass against him or them, then the said Defendants shall recover his and their double costs, for which he and they shall have the like remedy as in cases where costs by law are given to Defendants.* [Read 1ª this

* The amendments, being additions, are shown by italics. They were made in Committee, and reported on Feb. 6. (Com. Book. L. J., XV. 65.)

day. L. J., XV. 61. The Bill dropped in the Commons without a first reading (C. J., X. 658), although the Lords sent a message on 22 Feb. to remind them of it. (*Ib.* 683; L. J., XV. 88.)]

546. Feb. 4. Hildeyard's Estate Act.—Draft of an Act for the better vesting and settling the Manor of East Horsley in Surrey in Trustees, to be sold for payment of the debts of Phillip Hildeyard, Esq. No amendments in either House. [Read 1ª this day; Royal Assent, 24 Feb. L. J., XV. 61. 93.) 3–4 W. & M. c. 35. in Long Calendar. Com. Book, 8 Feb.]

Annexed:—

(*a.*) Examined Copy of Act.

(*b.*) Particular of the Manor of East Horsley in the County of Surrey, as now let, viz.:

	£	*s.*	*d.*
Henry Lee's farm	12	0	0
Thomas Martyr's farm	10	0	0
Cooper's farm	18	0	0
James Halloway's farm	6	0	0
Symond's farm	7	0	0
Three cottages	5	0	0
The Lands called French lands	30	0	0
The Bishop's Mead	13	0	0
The Park	37	0	0
The Orchard	12	0	0
	150	0	0

Besides the Capital Messuage and Gardens thereunto belonging. [This and the next paper are endorsed "Mr. Hildeyard's Papers."]

(*c.*) Particular of the Manor of Gouxhill *alias* Gowsell in the County of Lincoln, viz.:

	£	*s.*	*d.*
The Homestead, 33 acres enclosed ground at 20*s.* an acre	33	0	0
Martin Close, let for	2	15	0
30 acres of Tethering ground at 4*s.* per acre	6	0	0
Arable land, 198 acres at 5*s.* per acre	49	10	0
Meadow, 236 acres at 6*s.* 8*d.* per acre	78	13	4
One farm in the occupation of William Smith	14	0	0
Henry Barnes per annum	1	10	0
William Cavell per annum	1	10	0
Michael Hutchin per annum	2	0	0
37 beast gales at 2*d.* per gale	3	14	0
36 tail gales at 4*d.* per gale	0	12	0
Profits of courts, fishing, and fowling	5	0	0
Quit rents	0	18	0
One other farm called Cavell's farm, let at	12	0	0
	211	2	4
Payable thereout for rent of assize and fowling and fishing	0	7	4
	210	15	0

Besides the house, orchards and garden.

HOUSE OF LORDS MSS.

1691–2.

547. Feb. 4. Gunpowder (Tower of London, &c.) Bill.—Draft of an Act for preventing dangers that may happen to their Majesties' Tower of London and the office for Victualling their Majesties' Navy, from Gunpowder kept in places thereto adjacent. Whereas great quantities of gunpowder are kept for sale by private persons trading therein, in warehouses or storehouses and other places in the hamlets belonging to the Tower of London and near their Majesties' Office for Victualling their Navy, and many more storehouses for the purpose aforesaid are erecting, which, in case any accident of fire should happen in any of the said storehouses, their Majesties' said royal garrison of the Tower, with all the magazine of powder, ammunition and utensils of war therein contained, and likewise their Majesties' said Victualling Office, with all the provisions and stores kept therein for victualling their Royal Navy, and all the houses in parts thereto adjacent would be in probability of being destroyed, the apprehension of which has had such amazing effects, that divers inhabitants have already quitted their habitations in the said hamlets, several tenants have given their landlords warning that they will leave their houses, and other persons, that intended to live in the said hamlets, have altered their resolutions and refuse to come to inhabit near such imminent and apparent danger, as may proceed from the neighbourhood of such storehouses. For the prevention whereof for the future, Be it enacted by, &c. That from and after the day of , no person or persons whatsoever shall keep or have any storehouse or warehouse for gunpowder within distance of the said Tower of London and said Office for Victualling the Navy; nor shall keep or have above the quantity of of gunpowder at any one time in any place or places within the said distance (their Majesties' Stores only excepted) upon pain of forfeiting the same; and that upon complaint thereof made upon oath before any two of their Majesties' Justices of the Peace (which oath the said Justices are hereby authorised to administer) it shall and may be lawful to and for any Churchwardens, Chapel-wardens, Constables and headboroughs, by warrant under the hands and seals of such Justices of the Peace, to them or either of them directed, *between the hours of ten in the forenoon and four in the afternoon*,* to enter into any warehouse or storehouse for keeping of gunpowder, or any other place justly suspected to keep gunpowder within the limits aforesaid (excepted as before excepted) and search and see what quantity of gunpowder is lodged therein, and upon refusal of entry after demand, it shall and may be lawful to and for such officer or officers to break open the doors belonging to such storehouses as aforesaid, or any other place or places suspected as aforesaid; and all such gunpowder, which upon any such search shall be found (over and above the quantity allowed by this Act) the same shall seize, take and carry away, sell and dispose of, and shall pay the money arising thereby (reasonable charges of seizing and selling the same being first deducted), one moiety thereof to the use of the poor of the parish where the said gunpowder shall be seized, the other moiety to the person that did make the discovery thereof. [Read 1ª this day, and all persons concerned to have notice and to be heard by Counsel on the 9th inst. (L. J., XV. 61, 62.) No further proceedings.]

548. Feb. 5. Caine *v.* Coleman.—Writ of Error, with Return of C. J. Holt endorsed thereon, and Transcript of Record, with Suggestion of Error and Defendant's Common Joinder annexed thereto. John Caine, of Whitechapel, Gent., a creditor for 1,500*l.* of Samuel Badily,

* The words in italics are substituted for "in the day-time."

a silk merchant, who became bankrupt, was appointed his Assignee in Bankruptcy, and sued William Coleman, now in the Marshalsea, for 50*l.* paid him by Badily after his bankruptcy, as alleged. Badily had been arrested at the suit of Alexander Cowse for 100*l.*, and had been in Ludgate Prison for two months before his bankruptcy. Besides his debt to Caine, he owed 344*l.* to John Head, and other sums, in all 2,000*l.* Judgment was given for Coleman in Exchequer Chamber, with 26*l.* costs. *Parchment Collection.* [Brought in this day (L. J., XV. 64). The hearing was appointed for 23 Feb., but never took place (*ib.* 82). *See also* No. **552.**

549. Feb. 5. Roffey *v.* Hunt.—Writ of Error, with Return of C. J. Holt endorsed thereon, and Transcript of Record with Suggestion of Error (endorsed as brought in 12 Feb.) and Defendant's Common Joinder annexed thereto. Elizabeth Hunt, widow, obtained Judgment against Edward Wilcox, of St. James', Westminster, carpenter, for a debt of 400*l.* with 4*l.* damages, and failing to recover from him, sued his sureties, John Roffey, vintner, and John Hodge, carpenter, both of the Strand, for 800*l.*, the amount of their Recognizance, by a Writ of *scire facias*. The latter objected that she ought first to have sued out a *capias ad satisfaciendum*, and Hunt pleaded that she had done so in the case of Wilcox. [Brought in this day. L. J., XV. 64. *Parchment Collection.* The Cause was heard on 24 Feb., *Mr. Rowe* appearing for Plaintiff, and *Mr. Holles* for Defendant. Judgment affirmed with 10*l.* costs. (MS. Min.; L. J., XV. 91.)]

550. Feb. 6. Molyneux's Estate Act.—Consent of Reginald Molyneux, to the passing of the Bill to vest certain lands of William Molyneux, Gent., in trustees, for raising the sum of 2,000*l.* for paying the portions to his younger brother and sisters, pursuant to a Decree in the Court of Chancery. *Dated* 28 Jan. 1691–2. *Attested* by Thos. Preston and Thos. Patten. [Read in Committee this day. (Com. Book.) The Bill was brought from the Commons 27 Jan.; Royal Assent, 24 Feb. (L. J., XV. 51, 93.) 3–4 W. & M. c. 26. in Long Calendar.]

551. Feb. 8. Naturalisation Act (Marquess of Monpovillan and others).—Certificate that the Right Hon. Armand Nompar De Caumont, Marquess of Mompovillan* received the Sacrament, according to the usage of the Church of England, at the parish church of St. Martin-in-the-Fields on 24 Jan. 1691–2. *Dated* eod. die. *Signed* by Charles Legard, Curate, and Christopher Cock, Churchwarden. *Attested* by Wm. Ducker (his mark) and Thos. Wickins. [Read in Committee this day, Ducker and Wickins being sworn, and testifying to the truth of the Certificate. (Com. Book.) The Bill, as brought from the Commons on 1 Feb., was to naturalise the Marquess only. (L. J., XV. 56.) The Lords amended it in Committee by adding Godart, Baron de Ginkle and John James Nicolai (Com. Book, 8 Feb.; C. J., X. 664), to whom the Commons afterwards added Lewis James de Vasseur Cayny. (C. J., X. 665.) The Bill, as thus amended, received the Royal Assent on 24 Feb. (L. J., XV. 93.) 3–4 W. & M. c. 20. in Long Calendar.]

Annexed:—

(*a.*) 8 Feb. Certificate that the Right Hon. Godart, Baron de Rheede, Lord D'Amerongen Ginckell &c.† received the Sacrament on 31 Jan. 1691–2. *Dated* eod. die. *Attested* by Jacob

* "Armand Nompar de Caumont, commonly called Marquis of Monpouillon" in the Act.

† "Godert, Baron de Ginckel" in the Act.

HOUSE OF LORDS MSS.

1691–2.

van Leeuwen and Christopher de Schmettau. Rest as in preceding. [Read in Committee this day, and testified to as preceding. (Com. Book.)]

(*b.*) 8 Feb. Certificate that Mr. John James Nicolai, a High German, of Dresden in Saxony, late Adjutant-General to the Elector of Bavaria and Gentleman of the German Emperor's Embassy to their present Majesties by the Earl of Cöningslex, is a true Protestant and member of the true Protestant Lutheran Church in the City of London, and that he received the Sacrament there on 16 Jan. 1691–2. *Dated* eod. die. *Signed* by John Esdras Edzard, Minister of the said Church, formerly called Trinity the Less. *Attested* by F. Thos. Fritsch, C. Godofredus Sultzberger and Johan Gottfried Düringer. [Read and testified to in Committee this day. (Com. Book.) Nicolai was sworn on 2 Feb. (MS. Min.)]

(*c.*) 15 Feb. Certificate that Lovis Jacques le Vasseur Congnes received the Sacrament on 7 Feb. 1691–2, in the parish church of St. Martin-in-the-Fields, Middlesex. *Dated* eod. die. *Signed* by Dr. Thos. Tenison, Minister of the said Church and Bishop of Lincoln, and by Christopher Cock, churchwarden. *Attested* by William Ducker (his mark) and Thos. Wickins. [Added by the Commons as "Lewis Jaques le Vasseur Coyny" (C. J., X. 665), under which name he appears in the Act. The Certificate was sent up by the Commons with the Bill returned this day.]

552. Feb. 8. Caine *v.* Coleman (in Error).—Petition of Plaintiff. The Defendant is dead since the writ of Error was brought. Prays that his widow and executrix may be summoned to hear judgment on the record. L. J., XV. 66. [The Cause never came to a hearing. *See also* **548.**]

Annexed:—

(*a.*) 18 Feb. Petition of Sarah Coleman, widow and executrix of William Coleman, for time to join issue. L. J., XV. 82.

(*b.*) 18 Feb. Petition of Plaintiff to set down Cause for hearing *ex parte*, and for early day for hearing. L. J., XV. 82.

553. Feb. 10. Mutiny, &c. Bill.—Amended* draft of Proviso to the Bill for punishing of Mutineers and Deserters, and preventing false Musters, and paying the Army according to the Musters of effective men, and for better paying of Quarters, as follows: Provided always, and be it farther enacted by the authority aforesaid, that no non-commission officer, nor private trooper or sentinel shall be punished for deserting or demanding their pay, so not above [eight]† *two* persons come together at one time that can prove there is [three months] *forty days* pay due to him or them, but upon full proof of that matter, shall be acquit of all and every such crime or crimes charged upon him or them at such Court Marshal where any such person shall be tried. [This Proviso, as amended and engrossed (Annex (*a.*) below) was offered on third reading this day, but agreed to be laid aside. (MS. Min. No entry in L. J.) The Bill was brought from the Commons on 18 Jan. (L. J., XV. 38), amended in C. W. H. on Jan. 29 and Feb. 5 (MS. Min.), and again on third reading, by adding a Clause concerning

* Omissions are shown by square brackets, and additions by italics. The Bill is not among the Records, having remained ultimately with the Commons.

† The word ("eight") was first altered to ("four"), before being finally changed to ("two").

Carriages (MS. Min.; L. J., XV. 70), and returned 10 Feb. with the amendments. (C. J., X. 692. *In extenso.*) To some of these amendments the Commons on 23 Feb. disagreed, appointed a Committee to prepare Reasons, and ordered a Message to be sent to the Lords for a Conference (C. J., X. 692-3), but the Prorogation on the 24th put a stop to further proceedings, and the Bill accordingly dropped.]

Annexed:—

(*a.*) 10 Feb. Engrossment of above, as amended.

554. Feb. 12. Paston *v.* L. Howard of Effingham (Privilege).—Petition of the Hon. Robert Paston, Esq., and Charles Shaw, Esq., in the behalf of themselves, and of Anne and Elizabeth their wives, being the daughters and heirs of Phillip Harbord, Esq., deceased, and granddaughters of Sir Charles Harbord, also deceased. The late Sir Charles Harbord left by will to his son Phillip a fourth part of the residue of his personal estate, after debts and legacies paid, for the benefit of Phillip's daughters and younger children, and Phillip thus received 3,200*l.*, which he managed as trustee during his life, and by his will made the Right Hon. Susan, now wife of Francis, L. Effingham, his sole executrix, in trust to pay his debts and legacies, including some to Petitioners' said wives, certain of which are not yet paid. Petitioners have applied to Lord and Lady Effingham to perform the trusts and to answer their Bill in Chancery. Petitioners, although advised that no privilege is allowed to peers in the case of a trust or executorship in trust, nevertheless pray their Lordships for leave to proceed in the Bill. L. J., XV. 73. [On 19 Feb. in Committee for Privileges, to whom this Petition was referred, *Sir Thomas Powys* opened the case for Petitioners, and said it is barely a trust in Lady Effingham. Sir Charles Harbord's Will is read. Mr. Harbord's receipt for 3,200*l.* is read, and also his Will. *Mr. Finch* (for L. Howard): Lady Effingham is not otherwise a trustee than as an executrix. Petitioners' legacies are actually paid. Lady Effingham has all the remainder of Mr. Harbord's estate, after the debts are paid. *Counsel* for Petitioners: If Mr. Harbord was a trustee, as undoubtedly he was, for the children, then his executrix must needs be so. The executrix can have it in no other right than a testator has. *Mr. Finch:* Any creditor may as well move your Lordships that my Lord should waive his privilege as the Petitioners; for the case is the same. *Question:* Whether in this case L. Howard of Effingham has any privilege? Contents, 3; Not-Contents, 10. Resolved in the *Negative.* Ordered to report as in L. J., XV. 86. (Priv. Book, 19 Feb.)]

Annexed:—

(*a.*) 12 Feb. Order of the House on above Petition. *Signed* Matth. Johnson, Cler. Parliamentor. L. J., XV. 73. *In extenso.*

(*b.*) 20 Feb. Report from Committee for Privileges. L. J., XV. 86. [It is dated wrongly the 12th of February.]

555. Feb. 13. Shipbuilding Bill.—Commons' Engrossment of an Act for encouraging the building of good and defensible ships. For the better encouragement of building good and defensible ships, Be it enacted by the King and Queen's most excellent Majesties, &c., That all and every person or persons that shall, within the space of seven years, from and after the first day of May one thousand, six hundred ninety-two, build, or cause to be built, within any of their Majesties' dominions, any ship or ships of three decks with a forecastle and five foot six inches between each deck, from plank to plank, measuring 600 tons at least, and mounted with thirty pieces of ordnance at least, and

HOUSE OF LORDS MSS. 1691–2.

other ammunition proportionable, shall for the first three voyages which the said ship or ships shall make from their Majesties' dominions to any foreign parts, have and receive to their own proper use and benefit, one-tenth part of the Customs that shall be paid to their Majesties, for all such goods and merchandise as shall be exported or imported on the said ship or ships to and from this kingdom. And the Commissioners and Officers of their Majesties' Customs are hereby empowered and required to pay the same to the owner and owners of the said ship or ships accordingly. *Parchment Collection.* [Brought from the Commons this day; read 2ª on 18 Feb. (L. J., XV. 74, 82.) No further proceedings, the Prorogation taking place on 24 Feb. Compare Act of 1694 (5–6 W. & M. c. 24.)]

556. Feb. 13. D. Bolton's Privilege (P. Ryley).—Copy Order of Council, dated 11 Feb. 1691–2, appointing Counsel to be heard on the 18th inst., on the Petition of Philip Ryley, Surveyor General of his Majesty's Woods, Trent South, touching a late sale of decayed trees in the New Forest, which, though set out by the officers of the Navy, are suggested to be the greatest part ship timber and sold at an under value. *Signed* John Nicholas. A true copy. P. Ryley. [The House was informed this day that the above order had been served on D. Bolton, who complained of it. *William Coleman* says that two men came and delivered the order from Mr. Ryley. *William Robinson* says he was with Coleman, when they delivered the order. *Richard Robinson* says he was at the Treasury this day. One asked him if there was any complaint against the Duke. He said he had the order from Mr. Serjeant Ryley. The other said he came from Serjeant Ryley to leave that order for the Duke. William Wicket or Winter was one; the other was his servant, Charles Low. (L. J., XV. 75; MS. Min.)—On 19 Feb., the Parties being called in, *Wicket* was asked how he came to serve the order. He said he was desired by Mr. Ryley to leave it at the Duke's house. *Charles Low* says he was going to L. Lexington and Wicket asked him to go with him. He showed the original, and Mr. Ryley bad him satisfy them it was a true copy. He only left the copy. *Coleman*, called in, says that these men came to him, and read the original and left the copy. They read one and witness the other. *Mr. Robinson:* I went to the Clerk of Council and asked how the Duke of Bolton came to be served. He told me that the party used to leave a copy at the House. *Mr. Serjeant Ryley* is called in and told of the Order in Council, and that he gave order for the serving of it. He says: I neither did direct nor intend that the Duke of Bolton should be served with it. I did so out of respect to the Duke, and thought it might be a service to the King to have the Duke of Bolton acquainted with it. It was not to be left with his Grace by my order. I did not intend it out of disrespect to him. I set my hand to it out of respect to him, and to save him any trouble. Then, by the Speaker's direction, he asked the Duke's pardon for the rudeness. (L. J., XV. 84; MS. Min.)]

557. Feb. 13. Mortgages (Clandestine) Bill.—Commons' Engrossment of an Act for preventing Frauds by Clandestine Mortgages. Identical with Act of 1692 (4 W. & M. c. 16. Fol. Ed.), except in a few verbal particulars and in making the Act commence on 24 June 1692 instead of 1 May 1693. *Parchment Collection.* [Brought from the Commons this day. (L. J., XV. 74.) The Committee on the Bill met Feb. 17 (M. Halifax in the Chair), and again Feb. 19 and 20 (L. Cornwallis in the Chair), but on each time only to adjourn, the last adjournment being to the 22nd. (Com. Book.)

On 20 Feb. the Commons having sent a message to remind the Lords of the Bill, the House ordered the Committee to be revived, and to meet on the 22nd, with Barons Lechmere and Powell to assist (L. J., XV. 85), but no further proceedings are recorded, and the Bill dropped with the Prorogation on the 24th.]

558. Feb. 13. Forfeited Estates (England) Bill.—Commons' Engrossment of an Act for vesting the forfeited estates in England in their Majesties to be applied to the use of the War.

Clause 1. Whereas diverse and sundry persons, being their Majesties' liege subjects, have, contrary to their duty, been guilty of High Treason against our Sovereign Lord and Lady King William and Queen Mary, in compassing and imagining their deaths, and in raising and maintaining War against them, and in adhering to their Majesties' enemies, as well within *this realm of England* * as in parts beyond Seas. And whereas this realm of England hath been put to great charge in defending their Majesties and the realms of England and Ireland against such their enemies, and it being highly reasonable that such charge should be defrayed by the estates of such traitors and enemies, as far as the same will go. *And whereas several of them have been attainted, or outlawed of such treasons.*† Be it therefore enacted by the King and Queen's Most Excellent Majesties, &c., That all and every person and persons who have been *attainted or outlawed for*‡ any the treasons aforesaid *committed against their Majesties*§ since the thirteenth day of February in the year of our Lord God one thousand, six hundred, eighty and eight, shall lose and forfeit to the King and Queen's Majesties, their heirs and successors, all such estate, right, title, interest, use, possession, powers, possibilities and authorities which they or any of them, or any other person or persons in trust or for the use or benefit of them, or any of them *at the time of such treason committed, or at any time since*‖ had, of, in or unto any honours, castles, manors, messuages, lands, tenements, rents, annuities, reversions, remainders, uses, possessions, offices, rights, conditions, trusts, or any other hereditaments whatsoever within *this realm of England, dominion of Wales and town of Berwick upon Tweed.*¶ And all judgments, statutes, recognizances, extents, right of action, right of entry, or any other chattels, real or personal, of what name, nature or quality soever they be, within *this realm of England, dominion of Wales, and town of Berwick upon Tweed.*¶ And that all such right, title, interest, use, possession, powers, *possibilities,*** or authorities which they or any of them, or any other person or persons in trust for them, *or any of them*†† *at the time of the said treason committed, or at any time since had, or*‡‡ of right ought to have had of, in, or to the said honours, castles, manors, messuages, lands, tenements, rights, trusts, rents, annuities, reversions, remainders, uses, possessions, *powers, possibilities and authorities,*§§ offices, conditions or any other hereditaments whatsoever. And all judgments, statutes, recognizances,

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* ("the realm of Ireland") in the Bill relating to Ireland. No. **559.**
† Omitted in ditto.
‡ ("guilty of") in ditto.
§ Omitted in ditto.
‖ ("the said thirteenth day of February or at any time after") in ditto.
¶ ("the said realm of Ireland or elsewhere") in ditto.
** ("privileges") in ditto.
†† The word ("had") appeared originally here, but was erased in the Commons, 12 Feb., on third reading. C. J., X. 662.
‡‡ ("or any of them had the said thirteenth day of February or at any time after, or") in Bill relating to Ireland. No. **559.**
§§ Omitted in ditto.

HOUSE OF LORDS MSS. 1691–2.

extents,* rights of action, rights of entry, or any chattels, real or personal, shall be deemed, and hereby are declared and adjudged to be forfeited, and actually vested in their Majesties their heirs and successors, for the purposes herein-after mentioned. And their said Majesties are hereby declared to be in the actual possession and seisin thereof, without any office or inquisition found or hereafter to be found. And it is hereby enacted and declared, that all and every the forfeitures so as aforesaid vested† in their Majesties, shall be and are hereby declared to be and remain in their Majesties, their heirs and successors, and in them so to continue until such time as the same shall be disposed of by authority of Parliament, for the effectual raising of moneys for the purposes aforesaid.

Clause 2. And to the end that the forfeitures so vested in their Majesties may not be aliened, or any way diverted from the purposes aforesaid, but may remain in the Crown, and not *to* ‡ be disposed, transferred, charged or incumbered otherwise than by authority of Parliament, It is hereby further enacted, by the authority aforesaid, that all grants, dispositions and other Acts whatsoever made, or to be made by their Majesties or either of them, whereby the said forfeitures, or any part thereof, are or shall be diverted or hindered from being employed and disposed for the purposes aforesaid, shall be and are hereby declared to be null and void. And all and every person and persons, bodies politic and corporate, are hereby declared to have been and to be incapable of taking and receiving any grant, disposition or conveyance of what nature soever, to entitle or enable them or any or either of them to have, hold and enjoy the said forfeitures or any of them, or any part thereof by any way or means whatsoever otherwise than by authority of Parliament.

Clause 3. Provided always and be it enacted, that nothing in this Act contained shall be construed or taken to hinder or impeach the compleating a grant intended to be made by their Majesties for the augmentation of several poor vicarages in Wales and other charitable uses out of the impropriate rectories of Poole Myvod, and Guillfield alias Gillifield, in the county of Montgomery, lately held by William Marquess of Powis by lease for three lives of Christ Church College in Oxford.

Clause 4. Provided nevertheless, and it is hereby enacted and declared by the authority aforesaid, that nothing in this Act contained shall extend to invalidate or make void any judgment, statute, recognizance, assurance, assignment, charge, incumbrance or conveyance of what nature soever, whereby any the forfeitures before mentioned are made liable or any ways subjected to answer or make good any sum or sums of money by any body politic or corporate, or by any person or persons whatsoever other than the wife, child or heir of any the persons liable to such forfeitures as aforesaid, really and bona fide lent and paid on or before the thirteenth day of February, in the year of our Lord one thousand, six hundred, eighty eight; but that, notwithstanding this Act or any thing therein contained, all such bodies politic and corporate and every person and persons whatsoever, their heirs, executors and assigns (other than the persons excepted as aforesaid) shall have the like benefit and advantage for the obtaining and recovering the debts and moneys so lent and secured, as if this Act had never been made. Provided the said assurances, charges, incumbrances and conveyances shall be enrolled in their Majesties' Court of Exchequer, on or before the first day of

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* ("and all other securities") added here in Bill relating to Ireland. No. **559.**
† ("or to be vested") added here in ditto.
‡ ("to") is omitted in ditto.

September, which shall be in the year of our Lord one thousand, six hundred, ninety two.

*Clause 5. Provided nevertheless, and be it enacted, that their Majesties may extend such grace and mercy to Henry Lord Dover, both in his honour and estate, as they shall think fit, and that any gift or grant to be made by their Majesties to the said Lord Dover, his heirs, executors and administrators, of his estate real and personal, or any part or parts thereof, shall be good and effectual in the law, and that the said Lord Dover, his heirs, executors and administrators respectively, shall and may take, hold and enjoy the same according to such grant so to be made by their said Majesties, and the limitations therein contained, this present Act, or any clause, matter or thing therein contained to the contrary notwithstanding.

Clause 6. Provided always that nothing herein contained shall extend to impeach or avoid the letters patents made by their Majesties to Arthur Earl of Torrington and his heirs, bearing date the fourteenth day of May in the year one thousand, six hundred and ninety, for granting unto the said Arthur Earl of Torrington and his heirs several pieces and parcels of ground and lands in the great level of the Fens, called Peterborough Level, or Bedford Level, containing by estimation ten thousand acres, be the same more or less, which was heretofore granted to Lawrence Earl of Rochester, Sidney Lord Godolphin and others and their heirs, in the said letters patents recited, in trust for Mary late Queen of England for her life, nor to impeach or avoid the grant made by the said letters patents to the said Arthur Earl of Torrington, nor to vest in their Majesties, their heirs or successors, any lands, tenements or hereditaments intended by the said letters patents to be granted to the said Arthur Earl of Torrington, any thing in this Act to the contrary thereof, in any wise, notwithstanding.

Clause 7. Provided always that George Howard, Esquire, otherwise called Lord George Howard, having surrendered himself according to their Majesties' declaration in August one thousand, six hundred and ninety, be and is excepted out of this Act, and left to their Majesties' gracious will and pleasure, as for and concerning the forfeitures and penalties in this Act mentioned.

Clause 8. Provided nevertheless that this Act, or anything therein contained, shall not extend or be construed or taken to extend in any sort to the manor of Dantsey alias Dauntsey, with the appurtenances, in the county of Wilts, or to the hundred of Chippenham, with the appurtenances, in the said county of Wilts, or to any the lands, tenements or hereditaments, which in and by certain letters patents of their present Majesties, bearing date the twelfth day of January, in the second year of their Majesties' reign, were granted, or are therein mentioned to be granted, to Charles Earl of Monmouth and his heirs, at and under the yearly fee farm rent of three hundred pounds, but that the said manor, hundred, and premises shall and may be enjoyed as if this present Act had never been made.

Clause 9. Provided always that this Act shall not prejudice or make void a grant or demise made by their present Majesties in the year one thousand, six hundred, eighty-nine to Thomas Preston, of Holker, in the county of Lancaster, Esquire, of certain messuages and lands in Furness in the said county, lately the inheritance of Sir Thomas, Baronet, for the term of one and twenty years. But that the said Thomas Preston may hold and enjoy the same under the rents and covenants in and

* From here to end of clause 9 was added in the Commons, 4 Feb., on Report. C. J., X. 653.

according to his said grant or lease, anything in this Act contained to the contrary notwithstanding.

* Clause 10. Provided that nothing in this Act shall extend to be construed to forfeit to, or vest in, their Majesties any the lands tenements hereditaments, estates, annuities or interests of Buno Talbot, Esquire, but that the same may be held and enjoyed in such manner as if this Act had not been made.

Clause 11. Provided that nothing in this Act shall extend, or be construed to extend, to forfeit, or vest in their Majesties any the estate or interest of Adam Colclough, Esquire, but that the same may be held and enjoyed by him, his heirs, executors, administrators and assigns in such manner as if this Act had not been made.

Clause 12. Provided always and it is hereby further enacted and declared that this Act, or anything therein contained shall not extend to Thomas Panton, Esquire (who was a minor at the time of any supposed treasonable act by him committed, and who deserted their Majesties' enemies within few days after the late battle at the Boyne in the kingdom of Ireland, and hath since taken the oaths of allegiance to their present Majesties. *Parchment Collection.* [Brought from the Commons this day (L. J., XV. 74), but not further proceeded with, though the Commons sent a message on 18 Feb. to remind the Lords of the Bill. (*Ib.* 83.) It dropped with the Prorogation on the 24th.]

559. Feb. 13. Forfeited Estates (Ireland) Bill.—Commons' Engrossment of an Act for vesting the Forfeited Estates in Ireland in their Majesties, to be applied to the use of the War:—

Clauses 1 and 2. Identical with Bill relating to England (No. **558**), except where noted in the text to that Bill.

Clause 3. And to the end that the forfeitures aforesaid may be of the better value, It is hereby enacted by the authority aforesaid, that wheresoever any forfeiture is by virtue of this Act vested, or to be vested in their Majesties wherein the person or persons forfeiting had any estate or trust in tail, every such estate and interest shall be and is hereby declared to be by virtue of this Act vested in the King and Queen's Majesties in fee simple absolutely for the purposes aforesaid.

Clause 4. Provided always and it is hereby further enacted and declared that this Act or any thing therein contained shall not extend to invalidate or make void any articles or agreements that during the late war in Ireland were made and duly ratified within the said kingdom upon the surrender to their Majesties of any city, town, fort or garrison of what nature soever, or to frustrate or make void any declaration or proclamation legally and duly published during the said war by their present Majesties' authority, but that all and every person and persons notwithstanding this Act or anything therein contained, shall and may have and enjoy the like benefit and advantage of all such articles, agreements, declarations and proclamations as they might and of right ought to have enjoyed, had this Act never been made, provided also that the lands, tenements and hereditaments of the persons comprised within the benefit of any of the articles and agreements aforesaid shall be and are hereby charged with the payment of such sum and sums of money as by any of the articles aforesaid it is agreed they should be charged with at the instance of the Irish Commissioners parties to the said articles, which said sums of money charged on the said lands, tenements and hereditaments shall be apportioned, rated,

* From here to the end of the Bill was added in the Commons, 12 Feb., on third reading. C. J., X 662.

assessed and levied on them proportionably according to the pound rate of the yearly value thereof in such manner as by the persons in and by this present Act appointed or authorised, or which shall be hereafter appointed or authorised to judge of the said articles shall, upon hearing of all parties before them, be adjudged, deemed or determined.

Clause 5. Provided always that this Act nor anything therein contained shall extend or be construed to extend to attaint or convict, or be otherwise prejudicial to, any of their Majesties' Protestant subjects of the realm of England or Ireland not being in actual arms against their Majesties in that kingdom on or after the first day of September, one thousand, six hundred, eighty-nine. But they and every of them respectively shall have, hold and enjoy their respective estates and interests in law or equity in all and every the castles, lordships, manors, seigniories, lands, tenements, rents, reversions, remainders and hereditaments, with their and every of their appurtenances, which did of right belong or appertain to them or any of them, or whereof any of them were seised of any estate of inheritance or otherwise in use, possession or remainder on the said first day of September, one thousand, six hundred, eighty-nine, nor to alter or take away any right, title or interest, by mortgage, lease, statute, judgment, recognizance, bond or any other security bona fide of them or any of them, their heirs or assigns, executors or administrators, to any estate of lands, tenements, or hereditaments, or otherwise of any person or persons whose estates are hereby forfeited or vested in their Majesties, anything herein contained to the contrary notwithstanding.

Clause 6. Provided nevertheless, and it is hereby declared that no person or persons whatsoever, as Protestant subjects of the said kingdom of Ireland, shall have any benefit or advantage of this Act, who shall not before the eight and twentieth day of November in the year of our Lord one thousand, six hundred, ninety-two take the oaths in one Act of Parliament made in the first year of their Majesties' reign, entituled An Act for removing and preventing of all questions and disputes concerning the assembling and sitting of this present Parliament. And shall also make, subscribe, and repeat the declaration mentioned in one Act made in the thirtieth year of the reign of the late King Charles the Second, entituled An Act for the more effectual preserving the King's person and government by disabling of Papists from sitting in either House of Parliament, in such manner and form as by the said Acts are limited, ordained and appointed to be taken, made, subscribed and repeated.

Clause 7. And to the end that no person may depend upon any judgment or resolution already made or to be made, concerning the said forfeitures, until some particular provision shall be made concerning the same by authority of Parliament, It is hereby further declared and enacted by the authority aforesaid, that notwithstanding any judgment or resolution made or to be made concerning the said forfeitures, all claims and demands whatsoever touching and concerning the same shall be subject to and only liable to such judgment, resolution and final determination as shall hereafter be made, either by Parliament or by some Judges or Commissioners appointed by, or pursuant to, some Act of Parliament hereafter to be made concerning the same.

Clause 8. Provided always, and be it enacted that it shall be lawful for their Majesties to grant to any persons, as a reward for their service, any of the lands and hereditaments vested in their Majesties by virtue of this Act, so as such lands and hereditaments do not exceed one full third part in value of the whole.

HOUSE OF LORDS MSS.

1691–2.

* Clause 9. Provided always and it is further declared and enacted by the authority aforesaid, that the third part of the forfeitures by this Act reserved to the disposal of their Majesties, shall be disposed and given to such Military Officers and Soldiers as their Majesties shall think fit, who actually served in the wars in Ireland in person there since the thirteenth day of February one thousand, six hundred, eighty-eight, and to no other person or persons whatsoever.

Clause 10. And be it further enacted by the authority aforesaid, that all and every impropriations or impropriate tithes forfeited to or vested in their Majesties, their heirs and successors, by this Act, or otherwise forfeited or escheated to their Majesties in right of the Crown, if there be no lease or leases thereof in being unforfeited or otherwise, as soon as the unforfeited lease or leases shall be expired or otherwise determined, and in the meantime the reserved rents of such leases are hereby given to the Church for ever, and hereby are and for ever shall be settled and established upon the present and future incumbent and their successors, which have or shall have actual cure of souls in those respective parishes wherein such impropriations are, and such respective impropriate tithes do arise and accrue, and that all and every lease or leases let or demised for any certain term of years yet unexpired by any archbishop, bishop, dean, dean and chapter, or other ecclesiastical person or persons or their successors in their politic capacity of any lands, tenements or hereditaments so unto them belonging or appertaining, and that are by this present Act forfeited and vested in their Majesties, that all and every such land and tenements so forfeited, and the remainder of the term of years yet to come and unexpired of such lease or leases, shall be and are hereby given and assigned, assured and confirmed unto the respective sees or bodies politic, to whom the reversion after such lease or leases do or shall of right belong.

Clause 11. Provided always and be it further enacted by the authority aforesaid, that all and every the manors, lands, tenements and hereditaments whatsoever in the said kingdom of Ireland of John Lord Baron of Duleck, Walter Bellew, Esquire, Dudley Bagnall, Esquire, Sir John Flemming, Knight, and Francis Eustace, Esquire, and every of them, And the manor of Dowth and Proudsfoots town in the barony of Slane and county of Meath, already granted by their Majesties to Henry Lord Viscount Sidney, one of their Majesties' principal Secretaries of State, or to others in trust for him, shall be surrendered unto their Majesties, their heirs and successors, by the said Lord Viscount Sidney, his heirs or assigns, before the first day of May in the year of our Lord one thousand, six hundred, ninety-two. And that it shall and may be lawful to and for their Majesties, their heirs and successors, within the space of six months after such surrender made as aforesaid, to grant and assure unto the said Henry Lord Viscount Sidney, his heirs and assigns, other lands, tenements and hereditaments in the said kingdom of Ireland, vested or declared forfeited or to be forfeited by this present Act, as shall be equal in yearly value, worth and purchase to the premises so hereby intended to be surrendered, whereby the said Lord Viscount Sidney, his heirs and assigns, shall and may be fully reprized, which said grants and assurances thereof shall be good and effectual in law. And the said Lord Viscount Sidney, his heirs and assigns, shall be capable of accepting thereof, anything in this present Act to the contrary in any wise notwithstanding.

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* This and the next Clause were added in the Commons, 12 Feb., on third reading (C. J., X. 663–4), and are annexed as separate Schedules to the Engrossment.

Clause 12. And forasmuch as James Duke of Ormond, for his firm adherence to the Protestant religion and his early services to their Majesties, has been deprived by the rebels of all his estate, real and personal, in Ireland, whereby he is rendered in a great measure uncapable to discharge the great incumbrances whereunto his estate is liable, all his estate being and lying within that kingdom, Be it enacted by the authority aforesaid, that it shall and may be lawful for their Majesties, their heirs and successors, to grant to the said James Duke of Ormond and his heirs any of the forfeitures made by this Act or any other means within, or on any of the estate or estates of the said James Duke of Ormond, anything contained in this Act to the contrary notwithstanding.

Clause 13. Provided nevertheless and be it enacted that their Majesties may extend such grace and favour to Charles Earl of Abercorn (of the kingdom of Scotland) as to the honour of Straban in the kingdom of Ireland, and the estate of Claudius late Earl of Abercorn and Baron of Straban, forfeited to their Majesties, as their Majesties shall think fit. And that any gift or grant to be made by their Majesties to the said Charles Earl of Abercorn and his heirs of the said honour and estate or any part or parts thereof shall be good and effectual in the law. And that the said Charles Earl of Abercorn and his heirs shall and may take, hold, and enjoy the same according to such grant so to be made by their Majesties, this present Act or any clause, matter or thing therein contained to the contrary notwithstanding,* subject nevertheless to such debts and legal incumbrances of the said Claudius late Earl of Abercorn as the said estate or any part thereof were liable to or chargeable with in case the same had not been forfeited.

Clause 14. Provided always that nothing in this Act shall extend or be construed to extend to attaint or convict, or be otherwise prejudicial to, Thomas FitzMaurice, Esquire, son and heir apparent of William Lord Baron of Kerry and Lixnaw, but that he the said Thomas FitzMaurice shall have and enjoy such rights, estates and interests in Law and Equity in the said kingdom of Ireland as he might have done had this Act never been made, anything herein contained to the contrary notwithstanding.

Clause 15. Provided always that nothing in this Act contained shall extend or be constued to extend to the office of Clerk of their Majesties' Privy Council in Ireland, but that the person now in possession of the said office shall hold and enjoy the same in such manner as if this Act had not been made.

Clause 16. Provided also that the office of Usher of the Court of Chancery of Ireland taken by Thomas Tilson, senior, in the name of Oliver Grace, of the city of Dublin, gentleman, in trust for the said Thomas Tilson, shall not be forfeited or avoided by any act or disability of the said Oliver Grace by not taking the oaths and subscribing the declaration appointed by the late Act intituled An Act for the abrogating the Oath of Supremacy in Ireland and appointing other oaths or otherwise. But that the said Thomas Tilson, taking the said oaths and subscribing the said Declaration shall be, and is hereby enabled to have, hold and execute the said office, and receive the fees and perquisites thereunto annexed and belonging, and to appoint a deputy or deputies for executing thereof during the life of the said Oliver Grace, as if the said office or place of usher had been originally granted to the said

* From here to the end of this Clause was added in the Commons, 12 Feb., on third reading (C. J., X. 664), and is annexed as a separate Schedule to the Engrossment.

HOUSE OF LORDS MSS.

1691–2.

Thomas Tilson in his own name, anything in the said former Act or in this Act to the contrary notwithstanding.

* Clause 17. Provided also and be it enacted by the authority aforesaid, that notwithstanding anything in this Act contained, It shall and may be lawful to and for their Majesties, their heirs and successors, to grant, assign and set out unto the Honourable Sir John Trevor, knight, Speaker of the House of Commons, executor of Arthur Trevor, Esquire, deceased, any lands or tenements which were the lands or tenements of Donough late Earl of Clancarty in the kingdom of Ireland, deceased, which are forfeited to their Majesties for High Treason by Donough, Earl of Clancarty, grandson and heir of the said Donough, Earl of Clancarty, deceased, until the said Sir John Trevor, his executors and assigns, shall be thereout paid and satisfied the principal debt of Nine Hundred pounds interest and damage for the same (which said debt was due and owing unto the said Arthur Trevor upon a bond bearing date the eighteenth day of January, one thousand, six hundred, sixty-one, and entered into by the said Donough Earl of Clancarty the grandfather, deceased, and Charles Lord Viscount Muscry, his son and heir apparent, and wherein they jointly and severally bound themselves and their several heirs, executors and administrators in the penalty of eighteen hundred pounds, for payment of the sum of nine hundred, fifty four pounds on the twentieth day of January one thousand, six hundred, sixty-two. And that the said Sir John Trevor, his executors and assigns, shall hold and enjoy the said lands so to be granted, assigned and set out accordingly.

Clause 18. Provided nevertheless and be it enacted that their Majesties may extend such grace and favour to Captain Christopher Wray, son and heir apparent of Sir Drury Wray, Baronet, both as to the honour of baronet and the estate of inheritance of his mother (which is forfeited to their Majesties during his father's life) as their Majesties shall think fit, and that any gift or grant to be made by their Majesties to the said Captain Christopher Wray, his heirs and assigns, of the said honour and estate, or any part or parts thereof, shall be good and effectual in the law, and that the said Christopher Wray, his heirs and assigns, shall and may take, hold and enjoy the same according to such grant so to be made by their Majesties, this present Act or any clause, matter or thing therein contained, to the contrary notwithstanding.

Clause 19. And whereas Sir Thomas Southwell and his brother William Southwell, being made prisoners and condemned for adhering to this present government, were forced for preservation of their lives and to make their escapes, to pretend to serve the late king James. Be it therefore enacted by the authority aforesaid, that nothing in this Act shall be construed to deem the said Sir Thomas Southwell, or his brother William Southwell forfeiting persons.

Clause 20. Saving always to Connor O'Brion, Esquire, and his heirs, all his right, title and interest in law or equity in or to any manors, lands, tenements or hereditaments now or late in the possession of Daniel Lord Viscount Clare in the kingdom of Ireland, anything contained in this Act to the contrary in any wise notwithstanding. *Parchment Collection.* [Brought from the Commons this day (L.J., XV. 74), but not further proceeded with, though the Commons sent a message on 18 Feb. to remind the Lords of the Bill.]

560. Feb. 16. Navigation Act Suspension (West Indies) Bill.—Commons' Engrossment of an Act for permitting English Ships to be

* From here to the end of the Bill was added in the Commons, 12 Feb., on third reading. C. J., X. 663.

navigated with foreign Seamen to and from the West Indies during the War. Whereas in one Act made in the twelfth year of the reign of King Charles the Second for the encouraging and increasing of Shipping and Navigation, among other things it is enacted, that from and after the first day of December, one thousand, six hundred and sixty, and from thence forwards, no goods or commodities whatsoever shall be imported to, or exported out of, any lands, islands, plantations or territories belonging to his Majesty in Asia, Africa or America, in any other ship or ships, vessel or vessels, whatsoever, but in such ships or vessels as do truly, and without fraud belong only to the people of England or Ireland, dominion of Wales, or town of Berwick-upon-Tweed, or are of the built of, and belonging to, any the said lands, islands plantations or territories as the proprietors and right owners thereof, and whereof the master and three-fourths, at least, of the mariners are English, under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported into, or exported out of, any of the aforesaid places, in any other ship or vessel, as also of the ship or vessel with all its guns, furniture, tackle, ammunition and apparel. And whereas by the great need there is of seamen for the manning their Majesties' fleet, a number of English seamen cannot be spared sufficient to navigate ships, according to the said Act, whereby their Majesties' Revenue of the Customs is very much lessened and the English plantations in America cannot be furnished from England with provisions, cloths, tools and other necessaries for their subsistance, nor send to England their produce to pay for the same, whereby the said islands and plantations are reduced to great distress and danger. Be it therefore enacted by the King and Queen's most excellent Majesties, etc., that so much of the forementioned Act, made in the twelfth year of King Charles the Second, for the encouraging and increasing of shipping and navigation, and of all other Act or Acts, whereby such ships as are permitted by the said Act to import goods into, and export goods out of, the said plantations, are obliged to sail to and from the English plantations of America, with three fourths, at least, English mariners, under penalty of forfeiture of all goods laden on such ships, and the forfeiture of the ship and vessel, with all its guns, furniture, tackle, ammunition and apparel, shall be and is hereby suspended, during the present war with France and no longer. And that it shall and may be lawful, during the time aforesaid, for any ship or ships, vessel or vessels, qualified according to the said Act, for encouraging and increasing of shipping and navigation, to sail with seamen subjects to any Prince or State in amity with their Majesties, and to load goods in any place or places not prohibited by the said Act nor any other Act of Parliament, and them import into any of their Majesties' plantations or Colonies in America, and there load the produce of the said plantations or Colonies, and bring the same into any the ports of the kingdom of England, or dominion of Wales, or town of Berwick-upon-Tweed, although three fourths of the mariners belonging to any such ship or ships, or vessel or vessels be not English, without incurring any penalty or forfeiture of ship or goods, guns, furniture, tackle, ammunition or apparel, and without being liable to any other or greater duty or charge whatsoever, than the said ship or ships, vessel or vessels, or the goods on any of them laden ought to have paid, if three fourths of the mariners sailing the said ship or ships, vessel or vessels, had been English, anything in the said Act for the encouraging of shipping and navigation, or any other Act contained to the contrary thereof, in anywise notwithstanding.

And be it further enacted, that it shall and may be lawful, during this present war with France, for all English ships, which shall import

HOUSE OF LORDS MSS. 1691–2.

into this kingdom any hemp, pitch, tar, mast, plank, deal or any other Naval stores, to be navigated by foreign seamen, any Act, law or statute to the contrary notwithstanding. *Parchment Collection.* [Brought from the Commons this day; read 1ª the 17th. (L. J., XV. 78, 79.) Read 2ª on 18th and committed, and the Commissioners of the Navy to attend. (*Ib.* 82.) On 23 Feb. Committee put off to the 25th. (*Ib.* 89.) The Bill dropped with the Prorogation on the 24th.)

561. Feb. 17. Lady Gerard of Bromley *v.* L. Gerard of Bromley (Privilege).—Petition of Elizabeth Gerard, Baroness Dowager of Gerards Bromley, for the judgment of this House, whether Charles, L. Gerard, against whom she is proceeding for recovery of her dower, may insist on his privilege, though not having taken the oaths. L. J., XV. 80. Almost *in extenso.* [Privilege was disallowed on 24 Feb., and a general Order made to this effect. (*Ib.* 91.)]

Annexed :—

(*a.*) 18 Feb. Answer of Charles, Lord Gerard of Bromley. Respondent having been prosecuted by Petitioner in a writ of dower for the thirds of the estate, it was afterwards agreed to refer the matter finally to Petitioner's Counsel, and by Articles dated 25 Nov. 1686 the dower was agreed upon and set out to the satisfacton of Petitioner, who has since enjoyed it undisturbed, nor does she allege that Respondent has ever infringed those articles. The suit is groundless, and Respondent has been taken by surprise, all his papers being above 100 miles from London. Prays that his privilege may not be disallowed. *Endorsed* as brought in this day.

562. Feb. 22. Duchy of Cornwall Bill.—Commons' Engrossment of an Act for enabling their Majesties to make leases and grant estates of lands, tenements and hereditaments belonging to the Duchy of Cornwall. Identical with Act of 1694 (5–6 W. & M. c. 18 Fol. Ed.), except in some purely verbal particulars, and in the following passages, where the Act omits the words in square brackets and adds those in italics, viz. :—

Sect. i.

Line 13. . . . that [all grants made in the time of his said late Majesty King Charles the Second, or in the time of the late King James, or by their present Majesties since their happy accession to the Crown, or to be made by copy of Court Roll, according to the custom of the respective manor or manors of the said Duchy, or thereunto annexed or belonging, and] all leases and grants [so] made by his said late Majesty King Charles the Second, or by the [said] late King James . . .

Sect. v.

Line 1. And [for that the fees and charges of obtaining, passing and perfecting of leases and grants by copy of Court Roll of the said lands and tenements have lately been much increased and the tenants put to long and expensive attendances, to their great grievance and impairing of that Revenue, Be it further enacted by the authority aforesaid, That the Lord Treasurer or Lords Commissioners of the Treasury or Chancellor of the Court of Exchequer for the time being shall and may, from time to time during the time aforesaid, contract with such tenants for such leases and copies in such way as to them in their discretion shall seem best for their Majesties' service, and the ease and dispatch of the said tenants, and that all leases and grants hereafter made by Indenture, Copy of Court Roll or otherwise, of any of the said messuages, lands or tenements, by force and virtue of this Act or otherwise, and all reservations, conditions and covenants therein contained, shall be made and written in English and not in Latin, and] *whereas within the County of Cornwall there are several tenements, belonging to the said Duchy, of small value so that the charge of passing Letters Patents under the Great Seal or leases under the Seal of the Exchequer and grants by Copy of Court Roll may discourage the tenants from renewing so often as otherwise they would do, Be it further enacted by the*

authority aforesaid, that the whole fees, reward and charges to be paid, received or taken for the preparing, writing, drawing, obtaining, making, passing [and] *or* perfecting of any such lease or grant, and for the petition, answer, reference, report, particular, certificate, contract, warrant, inrollment and entry thereof, and for every other matter [or] *and* thing relating thereunto, or touching or concerning the obtaining, passing and perfecting [of] any [such] lease or grant *of such small tenements in the said county of Cornwall* (*where the fine or value of such lease or grant to be made or renewed shall not exceed the sum of eighty pounds*) shall not exceed the sum of ten pounds for every lease, and four pounds for every copy, over and besides the *said* fine *or value* [payable to their Majesties for or in respect of such lease or grant of any tenement within the county of Cornwall], the said respective sums, not exceeding ten pounds and four pounds, [to be ascertained and] to be paid, distributed and divided unto and amongst the several and respective officers *and* clerks *of the Exchequer* and [persons] *Stewards of the honours and manors of the said Duchy* concerned and employed in the preparing, passing and perfecting of such lease or grant *respectively*, in such [parts, shares and proportions as the Lord Treasurer, or the Lords Commissioners of the Treasury or Chancellor of the Court of Exchequer for the time being shall limit, direct and order, any usage or practice to the contrary thereof in any wise notwithstanding] *proportion as the fees of leases or grants within the said Duchy formerly and hitherto were and are received;* And if any of the said Officers, Clerks [or persons] *and Stewards* shall demand, take and receive any greater or other fee or reward, or shall do or attempt, or cause to be done or attempted, anything contrary hereunto, such Officer, Clerk [or person] *and Steward* shall forfeit and lose for every such offence to the party grieved in that behalf so much money as any such Officer, Clerk or [person] *Steward* shall demand . . .

Parchment Collection. [Brought from the Commons this day; read 1ª on 23 Feb. (L. J., XV. 88, 91.) No further proceedings.]

563. Feb. 23. Butter (Weighing and Packing) Bill.—Commons' Engrossment of an Act for remedying the abuses in weighing and packing of butter. Identical with Sections i, ii, and vi. of the Act of 1692 (4 W. & M. c. 7., Fol. Ed.) except in the following passages :—

Engrossed Bill.	Act of 1692. (Fol. Ed.)
Clause 1.	Sect. i.
Forasmuch as the county of Suffolk and some part of the county of Norfolk consists chiefly of dairy farms and are chiefly supported . . .	Line 1. Forasmuch as divers countries (*sic*) of this Kingdom consist chiefly of dairy farms, and are in great measure supported . . .
. . . in all the sea-port towns in the said county of Suffolk . . .	Line 6. . . . in all or most of the sea-port towns in the said counties . . .
. . . approved by the said factors . . .	Line 8. . . . approved by the factors . . .
. . . said counties of Norfolk and Suffolk, contrary . . .	Line 15. . . . said counties, contrary . . .
. . . exposes the same to sale, the Seller shall not after be charged . . .	Line 19. . . . exposes the same to sale, by searching or * weighing the same (if he think fit), the Seller shall not after be charged . . .
Clause 2.	Sect. ii.
And for the preventing any frauds . . .	Line 1. And for the preventing any fraud . . .
. . . set his seal or mark upon the said butter, or name at length . . .	Line 3. . . . set his seal or mark upon the said butter, or the cask in which it is, or his name at length . . .
. . . by a warrant . . .	Line 13. . . . by warrant . . .
Clause 3.	Sect. vi.

* ("and") in original Act.

HOUSE OF LORDS MSS. 1691–2.

Parchment Collection. [Brought from the Commons and read 1ª this day, and Counsel ordered to be heard on the Petition of Hawes and others (*see* No. **564**) on the 24th. (L. J., XV. 89.) No further proceedings, the Prorogation supervening.]

564. Feb. 23. Butter (Weighing and Packing) Bill.—Petition of Nathaniel Hawes, Thomas Rodbard, John Ewer, Thomas Rogers and Richard Joyce, on behalf of themselves and others trading in butter and cheese in the cities of London and Westminster and parts adjacent. The Bill seems to make void the Statute of 14 Car. II. for remedy of abuses in weighing and packing butter, and thereby to set loose the makers to abuse Petitioners and their Majesties' subjects, as they have done and do daily, notwithstanding all the good provisions of that Statute, viz., in vending grease and decayed butter under a thin cover and inclosure of good butter, often packing great stones, great quantities of wet salt and other heavy trash in the body of the butter, and by augmenting the tare of the casks and abating the quantities of butter settled by that law, to the great damage of Petitioners and others that either vend or expend it. The Bill, if passed, is likely to disparage the commodity itself so much as greatly to discourage the transportation and expense of it in foreign parts. Pray to be heard by Counsel against the Bill. *Signed* by above-named and also by William Lea, Daniel Scott, Daniel Stanley, John Greening, John Field, John Jackson, Wm. Prince, Robert Adams, Henry Burton, John Moore, Richard Tirrell, Charles Berdoe, Roger Hazard, B. Smyth and John Rouss. L. J., XV. 89. [*See* No. **563.**]

565. Feb. 24. Judges' Commissions and Salaries Bill.—Commons' Engrossment (amended by the Lords)* of an Act for ascertaining the Commissions and Salaries of the Judges.

§ 1. The King and Queen's Most Excellent Majesties, taking into their Royal consideration the many evil consequences of the late practice of constituting Judges to hold their places only during pleasure, and that nothing conduces more to the good and safety of the people, and to the support of the true rights and dignity of the Crown, than the committing the administration of justice to men of known integrity and learning, and freeing them from temptation to corruption, by establishing on them sufficient salaries to support their dignity, and to recompense their employing their time and labour in the service of the public, and securing the constant and punctual payment of such salaries, have thought fit that it should be enacted, And be it enacted by, &c. That whosoever now is, or shall at any time hereafter be, constituted Chief Justice or one of the Justices of their Majesties' Court of Pleas to be held before their Majesties, commonly called the Court of King's Bench, or Chief Justice or one of the Justices of the Court of Pleas at Westminster, commonly called the Court of Common Pleas, or Chief Baron or one of the Barons of the degree of the Coif of their Majesties' Court of Exchequer, by their Majesties, their heirs or successors, shall by virtue of this present Act hold such place or office, so long as he shall well behave himself therein, unless he shall voluntarily surrender or resign the same, whether it be so expressed in his Commission, Writ or Patent or not, and in what terms or words soever the Commission, Writ or Patent constituting him Chief Justice or Justice, Chief Baron or Baron of the degree of the Coif in any of the said

* The amendments, which were made in C.W. H. on 23 Feb., are shown by italics in the case of additions, and square brackets in the case of omissions. They are supplied, with one exception (*see* § 5), from MS. Min. and C. J., X. 685.

Courts respectively, shall or may be conceived or written, And notwithstanding any clause or limitation in any such Commission, Writ or Patent to the contrary.

§ 2. And be it further enacted by the authority aforesaid, That every Chief Justice and Justice, Chief Baron and Baron of the degree of the Coif of the said Courts respectively, that now are or hereafter shall be, shall each and every of them respectively have and receive from their Majesties, their heirs and successors, the annual salary, pension or sum of 1000*l.*, to be paid them by four equal termly payments out of the Exchequer or Treasury of their Majesties, their heirs and successors, during their respective continuance to be Chief Justice or Justice, Chief Baron or Baron of the degree of the Coif of the said Courts respectively.

§ 3. And to the end the said salaries, pensions or annual sums may be duly paid every term, Be it enacted by the authority aforesaid, That the sum of 12,000*l.* by the year, part of the money arising by or from the duty of Excise or Rates, Impositions or duties upon beer, ale and other liquors granted to his late Majesty King Charles the Second, his heirs and successors, by an Act of Parliament made in the 12th year of his reign, entituled An Act for taking away the Court of Wards and Liveries and Tenures *in Capite* and by Knights Service and Purveyance, and for settling a Revenue upon his Majesty in lieu thereof, shall be and is hereby appropriated to the payment of the said salaries, pensions and sums, and that the Receiver and Receivers, Farmer and Farmers of the said duty shall before the end of every term pay into the Exchequer or Treasury of their Majesties, their heirs and successors, the sum of 3000*l.* for the said salaries and pensions, and shall take a receipt for the same, wherein it shall be expressed to have been paid in for the said salaries or pensions, and the Auditor of the Receipt of the Exchequer shall keep a Book or Register, in which the said sum of 3000*l.* so paid in shall be registered and entered distinct from all other money paid in upon any other account, and the said 3000*l.*, which from time to time shall be so paid in, shall be kept apart and separate from any other money in their Majesties' Exchequer or Treasury, and shall be called the Judges' money, and shall be issued out for the payment of the said salaries or pensions of the said Chief Justices and Justices, Chief Baron and Barons respectively and upon no other account whatsoever; and the Commissioners of the Treasury or Lord Treasurer, Under Treasurer or Commissioners of the Treasury for the time being, shall not sign any warrant or order, nor do any other matter or thing, nor shall the Auditor of the Receipt or Writer of Tallies draw any order for the issuing any part of the said money hereby appropriated to any person or persons other than the said Chief Justices and Justices, Chief Baron and Barons, nor to any of them, otherwise than according to their respective proportions of the same, nor shall any Teller make payment of any part of the said moneys to any use whatsoever otherwise than by this Act is directed.

§ 4. And be it further enacted by the authority aforesaid, That within three days after the end of Easter term which shall be in the year 1692, and of every succeeding term, a Tally shall be struck and an Order of the same date for payment of the sum of 250*l.* to each and every of the said Chief Justices and Justices, Chief Baron and Barons, shall be made and registered by the proper officers and sent to the said Chief Justices and Justices, Chief Baron and Barons respectively, upon tender of which Tally and Order to the Teller, he shall immediately make payment of the said money without any further or other order or warrant by virtue of this Act.

HOUSE OF LORDS MSS.
1691–2.

§ 5. And be it further enacted, That if the said Receiver or Receivers, Farmer or Farmers of the said duty of Excise, or any officer or officers mentioned in this Act, shall willingly and wilfully offend against this law [or any clause thereof], such Receiver or Receivers, Farmer or Farmers, Officer or Officers shall for every such offence forfeit the sum of 300*l.* to such Chief Justices or Justices, Chief Baron or Barons as shall be injured or damaged thereby,* and the said sum of 300*l.* shall or may be recovered in any of their Majesties' Courts of Record by bill, plaint or action of debt, in which no privilege, protection or wager of law shall be allowed or more than one imparlance.

§ 6. Provided always, and be it further enacted by the authority aforesaid, That if at the end of the said Easter term or any other succeeding term, there shall remain any of the money by this Act appropriated and made the Judges' money by reason of any vacancy having been of any of the said offices or places of Chief Justice or Justice, Chief Baron or Baron for the space of one term or longer time, such money so remaining shall cease to be appropriated and shall be paid back and restored to the General Receipt of the Exchequer of their Majesties, their heirs and successors, and be disposable and disposed as any other of their Majesties' treasure, anything in this Act to the contrary notwithstanding.

§ 7. Provided always, and be it further enacted, That no fee shall be taken by any Chief Justice or Justice, Chief Baron or Baron, or by any officer attending the said Courts, or by any Clerk of Assize or his deputy, or by any Clerk of the Peace or his deputy, or by any other person to their or either of their use, for or by reason of the entry of any cause to be tried, trial or proceedings in any cause in any of the Courts at Westminster Hall, or in or at the Courts of Assize and *Nisi Prius* Courts of Oyer and Terminer and Gaol Delivery or Court of Sessions in and for any city, town and county, or for passing the Sheriff's accounts, other than such ancient *and* legal fees as have [always] been allowed and taken, a Table of which, signed by the Judges of the respective Courts, shall be hung up for public view in the said respective Courts or near thereunto, where all persons concerned may have access to the same during all the time of the Session of the Judges or Justices in the said Courts,† *which Table, so allowed and signed by the respective Judges, shall be by them tendered to the consideration of the Parliament at the next Session, to be by them approved or altered, so as to be put into an Act, if they shall think fit*, and all fees taken by any of them, or by any Officer attending the said Courts, or by any other person to their or either of their use, other than such as shall be expressed in such Table, so signed and hung up as aforesaid, are hereby declared to be an extortion upon the people; And it is hereby enacted by the authority aforesaid, That all and every person and persons offending herein shall forfeit to the party grieved the sum of 40*l.*, to be recovered by action of debt, bill, plaint or information, wherein no essoign, privilege or wager of law, nor any more than one imparlance, shall be allowed. *Marked:* Soit baillé aux Seigneurs. A ceste Bille les Seigneiures avecque les Amendements sont assentus. Le Roy et la Reyne se advisaront. *Parchment Collection.* [Brought from the Commons 18 Feb.‡ and

* The Engrossment here (Press 4, line 13) shows nearly 6 lines erased, but the words omitted are not given either in MS. Min. or in. C. J., X. 685.

† The words here in italics are annexed to the Roll as a separate Schedule A. The amendment is given in C. J., X. 685, but not in MS. Min.

‡ The Bill had been presented in the Commons by Sir Walter Young. C. J., X. 583.

read 1ª next day. (L. J., XV. 83, 84.) In C. W. H. on 22 Feb., E. Bridgewater in the Chair, the Bill was read through. Title and Preamble read and postponed. [House adjourned during pleasure. House resumed.]* *Judges* heard how a Judge is to be accountable for any misdemeanour now. *Moved*, That if any Judge comes to be tried, he may be tried by all the Judges, and so to come hither by writ of Error. *Question* put: Whether such a Clause be drawn. Resolved in the *Negative*. [*Moved*]: That if a Judge give a corrupt judgment, the party grieved may bring his action for bribery, corruption or interest against the Judge. That the King may sue any Judge for misdemeanour in the Exchequer Chamber. *Proposed*: A way to shorten the proceedings upon Judges. A Clause to be drawn to take away a *Noli Prosequi*. *Proposed*, That there be a penalty upon any person that shall prosecute a Judge and not prove it. *Question* put: Whether a Clause shall be added to the Bill, that, if a Judge give a corrupt judgment, the party grieved may bring his action for bribery, corruption or interest against the Judge. Resolved in the *Negative*. First enacting Clause read again. House resumed, and *E. Bridgewater* reported, that there was a Clause proposed that, if a Judge give corrupt judgment, the party grieved may bring his action for bribery, corruption or interest against the Judge, and that in that case no *Noli Prosequi* shall be allowed, and that the Committee were of opinion that it should be rejected. *Question* put: Whether to agree with the Committee. Resolved in the *Affirmative*. Contents, 28 (including 5 Proxies); Not-Contents, 27 (including 6 Proxies). Tellers, E. Thanet and E. Monmouth. *Moved*, that the House be adjourned during pleasure and put into Committee on the Poll Bill. After debate, *Question* put: Whether the House shall now proceed in a Committee of the whole House upon the Judges' Bill? Resolved in the *Negative*. Contents, 28; Not-Contents, 35. Tellers, E. Feversham and L. Berkeley. *Moved* that the House be adjourned until to-morrow. After debate, *Question* put accordingly. Resolved in the *Negative*. Contents, 40 (including 9 Proxies); Not-Contents, 40 (including 7 Proxies). Tellers, E. Feversham and L. Berkeley. (MS. Min.; L. J., XV. 88.)

On 23 Feb. House in Committee, E. Bridgewater in the Chair. Clauses 1 to 6 were agreed to; the first, after debate, on question, the third on question, and the fifth with amendments. On considering Clause 7, the Judges were asked what were the ancient fees. *L. C. Baron* [*Atkyns*]: If he take unlawful fees, it is extortion. We have Books of fees. I have my father's Book of fees. *Mr. Baron Lechmere* heard also. The Clause was then agreed to with amendments. The Bill was reported with amendments and read 3ª the same day. (MS. Min.; L. J., XV. 89.) Royal Assent refused, 24 Feb.(L. J., XV. 92.)]

1692.

566. April 12. Leach *v.* Thompson.—Copy of Writ of Error and of Transcript of Record. Thompson brought an action of ejectment in the Common Pleas against Sir Simon Leach and others, upon the demise of Charles Leach, of the manor of Bulkworthy, and obtained a verdict, which was affirmed by the King's Bench.† The Writ of Error is to reverse this Judgment. [Brought in this day. (L. J., XV. 95.) The Cause was heard on 23 Dec. 1692. The *Attorney-General* and *Mr. Finch* having been heard for Plaintiff, and the *Solicitor-General* and *Mr. Ward* for Defendant, and several cases

* This entry in MS. Min. must refer to an adjournment of C. W. H.

† 1 Shower's Reports, 296; 3 Levinz, 284; 2 Ventris, 198. The Appeal before the Lords is reported in Shower's Cases in Parliament, 150.

having been recited on each side, Counsel withdrew and the Speaker reported. The Judges were then heard. *Treby, C. J.:* I am for the affirmance of the Judgment. Gives his reasons for it. *L. C. Baron* [*Atkyns*]: I take the Judgment to be erroneous. *Powell, B.:* I am of opinion it is a good Judgment. Gives his reasons for it. It is a conveyance the law requires. *Judges* heard to several questions asked them by the Lords, and debates arose upon the several points. *Holt, C. J.*, heard to the infancy, of consenting (*sic*). After debate, Judgment reversed, with a Protest.* (MS. Min., L. J., XV. 165.) For further proceedings, *see* Notes to Annex (*c.*) below.]

Annexed:—

(*a.*) 3 Dec. 1692. Petition of Thomas Thompson for an early day for hearing. L. J., XV. 133.

(*b.*) 10 Dec. 1692. Petition of Sir Symon Leach, K.B. Prays for a further day for hearing, being sick and unable to attend his counsel, as appears by the certificate of his physician. *Underwritten* is the certificate, signed by Rich. Robinson, M.D., and Sam. French, Pharmacopola. L. J., XV. 142.

(*c.*) 6 Feb. 1692–3. Petition of same, on behalf of himself and about 30 of his tenants. Defendants, in contempt of their Lordships' Judgment, have proceeded further in the Common Pleas, in order to obtain a new trial on the title already adjudged by the House. Prays for relief. L. J., XV. 217. [The House having this day ordered one Counsel to be heard on each side on this Petition, Counsel were called in on 9 Feb. *Mr. Gibbons* (for Petitioner) opens the case. *Mr. Sloane* (for Mr. Leach, son and heir of the Leach who made the surrender): We acquiesce in your Lordships' Judgment. We have brought a new ejectment, as that Mr. Leach is son and heir of him who made the surrender, who was an idiot. There are depositions taking in Chancery to prove the idiocy and to perpetuate the testimony. It has not been here upon a Bill of Right. *Mr. Gibbons* says the Attorney was present at the Bar, when the Cause was heard here. Counsel withdrew and Speaker reported. *Moved*, that if a person have two titles, and one determined here, they may not proceed on the other. That the Judges be asked the question. *Holt, C. J.:* Possession must go as the Judgment of this House. *Ordered* that the Petition be dismissed,† &c. as in L. J., XV. 222. (MS. Min.)]

567. April 12. E. Lincoln (Assault on Webb).—Parchment Documents (5) relating to the alleged murder of Anthony Webb by E. Lincoln and his servants. *Parchment Collection.* [Brought in this day by L. C. Justice Holt. (L. J., XV. 94.) The MS. Min. add as follows:—*E. Lincoln* appeared this day in the House, pursuant to the Recognizance, and prayed that his Appearance might be recorded. *C. J. Holt* delivered to the House the Earl's Recognizance for his appearance this day, and the Inquisition found by the Jury. *Judges* asked what can be done in this case. *Holt, C. J.:* The Recognizance is not discharged, unless your Lordships take new bail. It seems to me most proper to take new bail. *Lechmere, B.:* I know no inconvenience

* The MS. Min. of 29 Dec. contain the following entry, which is not in L. J: "Leave given for any Lord to protest to the Judgment of Leach *v.* Thompson."

† Here follow these words in MS. Min., which were subsequently expunged: "And the party have liberty to proceed, and that nothing shall be done in the Courts below to impeach the Judgment of this House in point of law, of the validity of the surrender in point of law."

whether to let him stand on the old or a new bail. *Ordered* (*sic*) the Recognizance be continued and the Appearance recorded? *Question* put: Whether the Earl of Lincoln's own Recognizance shall be taken for his appearance in this case? Resolved in the *Affirmative*. *Ordered*, That the former Recognizance be discharged. Then *E. Lincoln* entered into a Recognizance. (L. J., XV. 94. *In extenso.*) The MS. Min. add: The reason for taking the Earl's own Recognizance in this case is because a person in the same Indictment and Coroner's Inquest for the same fact has received his trial at the Newgate Sessions and was acquitted, and the person supposed to be murdered, found by the Jury to have died a natural death.*] The documents are as follows:—

(*a.*) Writ of Certiorari to C. J. Holt for bringing up E. Lincoln's Recognizance to appear this day in Parliament, to answer the murder and felonious killing of Anthony Webb. *Dated* Westminster, 11 April 1692. *Endorsed* with C. J. Holt's Return to the Writ.

(*b.*) Recognizance entered into before C. J. Holt, at his house in St. Andrew's, Holborn, by Edward, E. Lincoln, in 4,000*l.*, and by the following sureties in 2,000*l.*, viz.:—

Sir Thomas Rowe, Knt., of St. James', Clerkenwell;
Sir John Mordant, Knt., of St. Andrew's, Holborn;
Richard Harnage, Linendraper, of St. Paul's, Covent Garden;
Richard Dealing, Upholster, of Ditto;
Richard Wynn, Esq., of Inner Temple, London;

for the Earl's appearance in Parliament on 12 April 1692, and thereafter from day to day, until he shall be discharged. *Sealed* with C. J. Holt's seal.

(*c.*) Writ of Mandamus to Justices of Peace, of Gaol delivery and of Oyer and Terminer for Middlesex, to deliver into Parliament the Coroner's Inquest and proceedings in this matter. *Dated* Westminster, 11 April 1692. *Endorsed* with C. J. Holt's return to the Writ.

(*d.*) Inquest held on 25 Feb. 1692 in the parish of Kensington, before John Cowper, Esq., Coroner, on the body of Anthony Webb, Gent., with the following Coroner's jury, viz.:—

John Hatter	John Hamond	William Berry
Will. Theakston	Ferdinand Unsworth	John Larchin
Rich. Sexton	John Hyrne	John Ruborough
Chas. Fitzwaters	Thos. Eustace	Samuel Worrell
John Symmonds	Thos. Tooby	William Hare
William Cole	Thos. Berry	John Wood
		Andrew Bantham.

The jury find that Edward, E. Lincoln, and Thomas Atkyns and Thomas Selby, labourers, all of the parish of Kensington, on 4 Nov. 1691 assaulted Anthony Webb, and that Atkyns threw him down and beat him with "a wooden staff, worth 4*d.*," of which wounds he died on 24 Feb. 1691–2; that E. Lincoln and Selby were present and assisting; that the three feloniously killed and murdered Webb; and that, immediately after the

* "The Earl of Lincoln having caused his man to beat a boy in November last, for gazing at him in the street, and the boy being since dead, the coroner's inquest yesterday found it murder in my Lord and his servants; but two physicians, who opened the boy, are of opinion that he died of an imposthume; however, the servant is secured, and a tipstaff attends my Lord."—*Luttrell*, 1 March 1691–2.

HOUSE OF LORDS MSS.

1692.

assault, E. Lincoln and Selby fled away and withdrew themselves, and the Jury do not know what property, if any, they possess. *Signed* John Cowper, Arm. Coroner.

(*e.*) Proceedings at the trial of Atkyns and Selby at Justice Hall in the Old Bailey, on 6 April 1692, before the following :—

Sir Thos. Stampe, Knt., Lord Mayor.
C. Justice Holt.
C. Baron Atkyns.
Sir Edward Nevill, Knt., Justice of K.B.
Sir Robt. Jefferys, Knt. } Aldermen.
Sir John Moore, Knt. }
Martin Ryder, Esq.

The Record recites the delivery by the Coroner of the Inquest, which is set out at length, and the bringing into Court of Atkyns and Selby in the custody of the Sheriffs, Sir Thos. Ashurst and Sir Richard Levett. The prisoners pleading Not Guilty, the following jury was impanelled, viz. :—

Jas. Partridge	Thos. Cox	John Browne
Francis Chapman	John Owting	Henry Gane
John Mills	Wm. Parkinson	James Cole
Ralph Goodin	Edward Salter	Christopher Yewell.

The jury returned a verdict of Not Guilty, and found that Webb on 24 Feb. 1691–2 and long before was sick of "a consumption," and died of that disease, by the visitation of God. The Court accordingly discharged the prisoners. *Signed* by Simon Harcourt, Clerk of Gaol Deliveries for the County of Middlesex. *Note* at foot : "12 April 1692. Brought into the House of Peers by the Lord Chief Justice of the King's Bench. Jno. Walker, Deput. Matth. Johnson, Cler. Parliamentor."

568. April 12. Winder *v.* Swindlehurst.—Writ of Error, with Return of C. J. Holt endorsed thereon, and Transcript of Record brought in this day. Roger Swindlehurst, of Slaidborne, sued, at York Assizes, Edmund and Thomas Winder and Henry and John Chapman, all of York Castle, yeomen, for detaining three cows and a calf, a mare and foal, some farm produce and implements, and household furniture, worth 27*l.*, his property, and converting them to their own use, and was adjudged 20*l.* costs and damages, and, on their appeal, 9*l.* L. J., XV. 95. *Parchment Collection.* [The Cause never came to a hearing.]

569. April 12. Prorogation.—Commission for proroguing Parliament this day to 24 May next. L. J., XV. 95. *In extenso. Parchment Collection.*

570. May 24. Prorogation.—Commission for proroguing Parliament this day to 14 June next. L. J., XV. 96. *In extenso. Parchment Collection.*

571. June 14. Prorogation.—Commission for proroguing Parliament this day to 11 July next. L. J., XV. 97. *In extenso. Parchment Collection.*

572. July 11. Writ of Summons (L. Lempster).—Writ of Summons to William Farmor de Lempster, Chr. *Dated* 2 July. [Introduced and took the Oath this day.] L. J., XV. 98. *In extenso.*

573. July 11. Prorogation.—Commission for proroguing Parliament this day to 22 August next. L. J., XV. 98–9. *In extenso. Parchment Collection.*

574. Aug. 22. Prorogation.—Commission for proroguing Parliament this day to 26 Sept. next. L. J., XV. 100. *In extenso. Parchment Collection.*

575. Sept. 26. Prorogation.—Commission for proroguing Parliament this day to 4 Nov. next. L. J., XV. 101. *In extenso. Parchment Collection.*

SESSION 1692–3.

576. Nov. 4. King's Speech.—His Majesty's Speech on opening Parliament. L. J., XV. 102. *In extenso.*

577. Garter's Roll.—A Roll of the Nobility of England, anno 1692. *Signed* Tho. St. George, Garter, 4 Nov. 1692. *Parchment Collection.*

578. Nov. 4. Mortgages (Clandestine) Bill.—Draft of an Act for preventing frauds by clandestine mortgages. Identical with Act of 1692–3 (4 W. & M. c. 16., Fol. Ed.), except in making the Act begin on 24 June 1692. [Read 1ª this day; dropped after commitment (L. J., XV. 103, 105). Justice Powell was substituted for Justice Gregory as one of the Judges appointed to assist the Committee. (MS. Min.) No proceedings in Com. Book.]

Annexed:—

(*a.*) 7 Nov. Draft Order appointing Committee on the Bill. The list of Lords includes L. Ashburnham, whose name is not in L. J., XV. 105., and gives L. Willoughby de Eresby instead of L. Willoughby of Parham.

579. Nov. 7. Moore *v.* Coote.—Petition and Appeal of William Moore, Esq., and Elizabeth, Countess of Meath, his wife. William, late Earl of Meath, in 1682 conveyed the manor of Harleston, worth above 800*l.* a year, to Alice, Countess Dowager of Drogheda and John Humfrey, in trust for himself for life, with power to sell it for payment of his debts, and after his death to raise, out of such land as remained unsold, 100*l.* a year for each of his two daughters, the Lady Elizabeth, wife of the Respondent, and the Lady Katharine Brabazon, and after paying all his debts at the time of his death, to divide the surplus equally between his two daughters at the age of 18 or at marriage. The Earl afterwards, having sold most of his trust estate and paid most of his debts, and seeing there would be a surplus of about 2,000*l.* apiece for his daughters, (which were the portions provided for them by his marriage settlement), and having, besides his trust estate, a personal estate of about 1,000*l.* in Ireland and England, devised the latter by will, in May 1684, to his wife, the Petitioner Elizabeth, whom he made his sole executrix, intending her to enjoy it, in case the trust estate was sufficient, as it was, to pay all his debts with the said surplus of 4,000*l.* He afterwards contracted for the sale of the whole trust estate, but died before the conveyances were made, and in Feb. 1684–5 made his last will in relation to his estate in England (which was the trust estate only), devising it to the said trustees, whom he made executors as touching that estate only, but confirming his former will as to his personal estate in favour of Petitioner Elizabeth. The Earl's executors and trustees suffered her to enjoy the personal estate undisturbed, but his daughter, the Lady Elizabeth, and the other Respondent Coote, having married, brought their Bill in Chancery to compel Petitioners to account for the personal estate and apply it to discharge the Earl's debts, and the Lords Commissioners on 27 Jan. 1692 decreed in their favour. Pray that this Decree may be reversed. *Signed* by Appellants; *Countersigned* by J. Conyers and T. Vernon

HOUSE OF LORDS MSS. 1692.

(whose signatures are copied). L. J., XV. 105. [The Cause was heard on 17 Dec. 1692. *Mr. Conyers* (for Appellants) opened the Case. *Mr. Finch* (for Appellants) heard also upon the two wills. Upon the two wills the settlement stands, and upon these two wills is the construction made. Therefore, say they, the whole personal estate must be applied. *The Solicitor-General* (*Trevor*) and *Sir Thomas Powys* heard for Respondents. Counsel for Appellants reply. Counsel withdrew, and Speaker reported. After debate, *Question* put: Whether the Decree shall be reversed? Resolved in the *Negative*. Contents, 15; Not-Contents, 19. Tellers, E. Sussex and E. Stamford. *Ordered* that the Decree be affirmed. (MS. Min.; L. J., XV. 151.)]

Annexed:—

(*a*) 15 Nov. 1692. Answer of Sir Phillip Coote, Knt., and Elizabeth, his wife. Respondents admit that the Earl in his lifetime contracted for the sale of part of his manor, but are not aware of his having made any conveyance, so that the manor or trust thereof descended to the Respondent Elizabeth and her sister as heirs-at-law, and for that reason, the persons who had so contracted with him brought their Bill in Chancery, after his death, against the said sisters to have the contract made good and a conveyance made to them. The Respondent Elizabeth insisting that the Earl's personal estate should be applied in the first place in payment of his debts, it was, with the consent of the Appellant Elizabeth, who was then unmarried, decreed accordingly. The Earl never designed his personal estate for the Appellant Elizabeth, having settled on her a jointure of 1,000*l.* a year, besides the lease devised to her by his will; but he intended it to pay his debts and thus ease his daughters and heirs-at-law, having offered in his lifetime to give 6,000*l.* with the Respondent Elizabeth in marriage, which one moiety of the surplus of the trust estate and another of the personal estate will not amount to. The Earl made two wills, one for his trust estate and the other for the personal estate, by neither of which is the personal estate given to the Appellant Elizabeth, but after his debts and legacies first paid. Pray that the Appeal may be dismissed with costs. *Signed* by P. H. Coote; *Countersigned* by P. Bowes. *Endorsed* as brought in this day.

(*b.*) 3 Dec. 1692. Answer of Lady Katherine Brabazon to same effect as preceding. *Signed* by Respondent; *Countersigned* by P. Bowes, whose signature is copied. *Endorsed* as brought in this day.

580. Nov. 7. Wycherley and others *v.* Mayor, &c. of Shrewsbury.—Petition and Appeal of Daniel Wycherley, Esq., on the behalf of himself and others, the inhabitants of Clive and Sansawe, in the County of Salop, and of John Hughes, William Turner, Samuel Orppe and Thomas Authors, late Curates of the Chapel of Clive in the County of Salop. The Chapel of Clive and Sansawe was a propriate to the Collegiate Church of St. Mary's, Shrewsbury, which took the tithes and supplied the cure, lying 6 miles from Shrewsbury. At the Dissolution the tithes were vested in the Crown, and Edward VI. founded a free Grammar School at Shrewsbury and granted the tithes to the bailiffs and burgesses of the town, without making any provision for service in the Chapel. Queen Elizabeth, by indenture dated 23 May in the 13th year of her reign, as well for the better advance of the School as for the maintenance of service in the Chapel, granted to the bailiffs &c. the rectory impropriate of Cherbury, but appointed no

particular sum either to the School or Chapelry, but the premises are a trust lodged in the Corporation for the equal benefit of both. Though the premises are worth 400*l.* a year and upwards, and the schoolmasters have therewith had houses bought and built for them and a library provided for the School, and their annual salaries are 200*l.*, and more than 600*l.* has been laid out in buying Scholarships at Cambridge University (a use designed by neither of the grants), there still remains 100*l.* a year to be disposed of. The premises in the Queen's grant are improved from 31*l.* to nearly 200*l.* a year, yet the Corporation refuse to allow more than 5*l.* a year to the Chapelry of Clive, which contains above 40 families, including about 120 communicants, and Petitioner has been forced to advance money for the curates out of his own estate. By advice of counsel, he exhibited an Information in the Attorney General's name against the Corporation and Andrew Taylor and Robert Forster, then head-schoolmaster and bailiff, to have a reasonable proportion of the grant applied yearly for Divine service in the Chapel, according to the Queen's intention, but the Lords Commissioners on 21 November 1691 dismissed the Information with costs, though the same was prosecuted solely out of a pious design and without any hopes of advantage to himself. Prays that this Decree of dismission may be reversed. *Signed* by D. Wycherley; *Countersigned* by W. Williams and Ja. Harrington. L. J., XV. 104. [The Cause was heard on 16 Dec. *Sir William Williams* (for Appellants): Our case is hard. We have law and equity too. Reads the Grant &c. 5*l.* a year is out of Cherbury: Their Answer admits it to be 365*l.* 15*s.* 10*d.* a year, and we affirm it to be 400*l.* and odd, so there is 70*l.* in their hands. *Mr. Finch* and *Sir Thomas Powys* heard for Respondents. *Sir W. Williams* and *Mr. Dobyns* heard in reply. Counsel withdrew and Speaker reported. *Proposed* to ask the Judges. *Treby, C. J.:* I do not observe the power, but in all there is the general intent of the Charity; as to build a bridge or the like. *L. C. Baron:* I think the power is in the Crown in this case, it being of Royal foundation, and the Crown may change it. After debate, the dismission was ordered, on question, to be reversed. (MS. Min.; L. J., XV. 150.)]

Annexed:—

(*a.*) 25 Nov. 1692. Answer of the Mayor, Aldermen and Burgesses of Salop. Edward VI. granted all the tithes of Clive and Sansawe and other tithes, now worth 100*l.* a year, to the bailiffs and burgesses of Shrewsbury, at 8*s.* yearly rent and with a licence for them to purchase any hereditaments not exceeding 20*l.* a year for the School maintenance. Queen Elizabeth, being seized in fee of the reversion of several tithes and hereditaments, being another part of the endowment of St. Mary's College, expectant on a lease for 21 years, made to one Kelton at a yearly rent of 11*l.*, and of the reversion of the rectory appropriate of Cherbury, and the tithes and profits thereof, expectant on another lease for 21 years, made to one Billmore at a yearly rent of 31*l.*, and of other tithes &c. in possession, part of the endowment of the dissolved College of St. Chad's, granted the same to the said bailiffs &c. at a yearly rent of 10*l.* 12*s.* 3*d.*, the Corporation covenanting to discharge several yearly pensions and duties, amounting to 10*l.* 12*s.* 4½*d.* issuing out of the rectory of Cherbury, and, after the expiration of the term then being of the said rectory, to employ out of its profits 5*l.* a year towards the maintenance of Divine Service in the Chapels of Clive and Astley, and to satisfy two stipends of 13*l.* 6*s.* 8*d.* and 6*l.* 13*s.* 4*d.* to the vicar and curates of St. Mary's, and to employ the rest of

the premises for the maintenance of the School, according to such orders &c. as should be made by Thos. Ashton, the then Schoolmaster, or in default thereof, by the Bishop of Coventry and Lichfield and Dean of Lichfield, and to perform such orders touching the placing, ordering and salary of a Minister in St. Mary's parish, with a clause of entry for non-performance. Various ordinances were accordingly made by Mr. Ashton and the Corporation, and by a Decree in Chancery in 21 Jac. I. the schoolmasters' stipends were fixed at 60*l.* to the head-master, with another 20*l.* for reading Divine Service and catechising the scholars; 45*l.* to the second master, 30*l.* to the third, and 20*l.* to the fourth; the said masters to account on oath for all entrance money received by them, which was to be applied as the other part of the revenue. The whole yearly revenues amount only to 365*l.* 15*s.* 10*d.*, of which the premises granted by Edward VI., worth 100*l.* a year and not subject to Appellants' demands, are part, and the rectory of Cherbury, another part, has been held under the Corporation for 20 years at 165*l.* 1*s.* 0*d.* a year, though now but at 144*l.* The 5*l.* payable by the Queen to the curate of Clive was not to commence during Billmore's lease or before the whole profits of the rectory came in possession, and the same has been duly paid yearly by the Corporation to the curates by them appointed, though the Appellant obstructed several of them in officiating there, and the persons now set up by him as curates are persons of his own appointment in opposition to the Corporation, with whom the right of appointing lies. In 1662 Appellant procured a Commission to visit the School, and petitioned Charles II. to have the curate of Clive's salary augmented, but the Bishop, to whom the Petition was referred, did not think fit to report in his favour, and the matter fell. The suit has left the Corporation on the School account 300*l.* in debt, and the masters' stipends are unpaid and the School buildings unrepaired. Queen Elizabeth never intended more than 5*l.* for the chapel, and the funds do not admit of any increase at present. The curate of Clive has only 40 communicants, while the curate of St. Mary's, with only 20*l.* a year, has 2000. It would be hard to apply the scholarships at St. John's, Cambridge, for increasing the 5*l.* stipend, since they were bought with the profits of the lands granted by Edward VI., which were not subject to the payment of this stipend. Pray that the Appeal may be dismissed with costs. *Signed* by John Hollier, Mayor, and Edward Gosnell, Robt. Wood, Collins Wolrich, Richd. Salter, Samuel Thomas, Arthur Tonge and W. Reynolds, Aldermen, and sealed with the seal of the Corporation on 22 Nov.; *Countersigned* by Thomas Price. *Endorsed* as brought in this day.

(*b.*) 28 Nov. 1692. Petition of Respondents for an early day for hearing. *Signed* by John Hollier, J. Kynaston, Richd. Salter, Moses Reynolds and Collins Wolrich. L. J., XV. 127.

581. Nov. 8. Jacobite Plot (Earls of Huntingdon, Marlborough and Scarsdale).—Copy Warrant to the Governor of the Tower for commitment of E. Huntingdon, for High Treason, viz^{t}:—

These are in their Majesties' names to will and require you to receive into your custody the person of Theophilus, Earl of Huntingdon, herewith sent you, being charged with high Treason in abetting and adhering to their Majesties' enemies, and him to keep in safe custody, until he shall be delivered by due course of law. For which this shall

be your Warrant. From the Council Chamber in Whitehall, the fifth day of May 1692.

To our very good Lord the Lord Lucas, Chief Governor of their Majesties' Tower of London, or to his Deputy.

CARMARTHEN, P.
NORFOLK AND MARSHAL.
LINDSEY. DEVONSHIRE.
WINCHESTER. DORSET.

A true copy.
JO. RICHARDS.

ROCHESTER. BEDFORD. MOUNTAGUE.
J. BRIDGEWATER. MACCLESFELD. NEWPORT.
NOTTINGHAM. LEXINGTON. RANELAGH.
CORNWALLIS. FALKLAND. CAPELL.
H. GOODRICKE. R. HAMPDEN. SYDNEY.
H. POWLE. OXFORD. PORTLAND.
H. BOSCAWEN. BATH.

Endorsed as read in Committee this day. [On 7 Nov. *E. Huntingdon*, *E. Scarsdale* and *E. Marlborough* informed the House that they had been committed and were then under bail within the time of privilege of Parliament.* *Moved*, that a day be appointed to consider of the business and examine it, and that all the Judges do then attend, and no other business to intervene. *Moved* that they be discharged from their bail. *Ordered* that L. C. Justice Holt be sent for presently to attend, with all the Judges of the King's Bench. *The Judges* came, and *L. C. Justice Holt* and the other Judges were heard, and they were of opinion that it must be removed by a Writ of Error. Case of L. C. Justice Scroggs cited. *The Judges*, in reply to a question, say they cannot in justice discharge until the last day of the term. *Holt, C. J.*, is heard to E. Lincoln's case :† "The case" he said "was between E. Lincoln and myself. I bailed his Lordship, and sent the Recognizance thither. The Parliament then was sitting in law. There was a *Certiorari* out of Chancery to me to certify it hither, which I did." *Moved* that the King's Bench be ordered by this House to discharge the bail of these Lords. After debate,‡ the House referred the matter to the Committee for Privileges, to whom the Lieutenant of the Tower was ordered to produce the warrants for the commitment of E. Huntingdon and E. Marlborough, and the Clerk of the Rules in the Court of King's Bench to send a copy of the Affidavit of Aaron Smith against E. Huntingdon and others in the King's Bench in Trinity term last. (MS. Min.; L. J., XV. 105.)

On 8 Nov. the Committee for Privileges, after reading the two Warrants brought in by the Deputy Governor of the Tower§—the originals of which were ordered to be returned—and also Aaron Smith's Affidavit,‖ and considering the following precedents, viz^{t}:—

E. Stamford's Case, 11 Nov. 1685.
L. Griffin's Case, 22 March 1688.
E. Lincoln's Case, 12 April 1692.
L. Delamer's Petition, etc., 9, 10 and 16 Nov. 1685.

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* "The suffering Lords," says Ralph, "opened the matter by making their several complaints, and laid their great stress on the circumstance of their being refused bail on Smith's affidavit, and the want of information against them by oath of two witnesses" (ii. 389).

† *See* No. **567** above.

‡ Luttrell speaks of "warm debates," and adds that Nottingham was questioned about the commitment, and gave an account of it, saying there was "an irreproachable witness against his lordship [E. Huntingdon], but mentioned not his name."

§ *See* Paper above and Annex (*a*).

‖ Annex (*b*).

HOUSE OF LORDS MSS. 1692.

Ordered to report that they found many difficulties in the case and desired the further directions of the House. (Priv. Book, L. J., XV. 106.)

On 9 Nov. the House, on receiving the above report, resolved itself into Committee, L. Cornwallis in the Chair. *Moved*, to ask the L. C. Justice whether, when these Lords were brought to the King's Bench, if he had not done what he has done, he would have been punishable by law? *Holt, C. J.*: For the point of law upon the Habeas Corpus Act, if anyone come to be (*sic*) and repeats the Habeas Corpus Act, if we discharge this person, without the King's consent, before the last day of the term, we do injustice to the King and contrary to his oath. Q. Whether it had been against the Habeas Corpus Act if he had bailed them to appear here? A. We have direction to bail till next term; we are not at discretion, if an indictment had been found. It is not proper to send them before your Lordships for want of an indictment. The E. Lincoln's case was a matter of discretion in me. Q. Whether, if the Parliament had been actually sitting, he could have bailed them to appear in this House? A. According to the Act, we could not, we have no warrant in law to do it. [The Clause in the Habeas Corpus Act is read]. By law this bail cannot be removed.*—House resumed. *E. Huntingdon* moves that the reason of his commitment may be examined. *E. Scarsdale* desires it may be examined whether there is anything against him, either upon oath or otherwise. *E. Marlborough* hopes he may be taken into the protection of the House, as well as others. *The three Lords* desire the protection of the House. *Ordered*, that the House enter into consideration of the commitment of the three Lords to-morrow, and that all the grounds for their commitment be then brought in.† (MS. Min.; L. J., XV. 107.)

On 10 Nov. in the House, the Warrants and Smith's Affidavit were read again. *Holt, C. J.*, is asked how Affidavits have been used? A. I cannot tell. We had the matter of the Affidavit debated, and we were of opinion this Affidavit was pursuant to the Habeas Corpus Act. That part of the Habeas Corpus Act was read. *Ordered* that Aaron Smith be sent for. *Holt, C. J.*, is asked whether, if there is but one witness, it is enough to remand a person? A. It is not our business to enquire into the King's evidence. I think one witness is not evidence. House informed that Aaron Smith is at the door. The Question to be asked him is, whether he meant by that Affidavit two witnesses against E. Huntingdon? *Aaron Smith* is called in and told he made an Affidavit in the King's Bench, and their Lordships would have him explain what he meant by some words in the Affidavit, and he was told he was not concerned. A. He desires a saving to himself, and to know the questions. He withdraws. *Moved* that the Question be set down before he be sworn. *Agreed* to ask him this Question: Whether he meant by his Affidavit there were two witnesses against E. Huntingdon? *Aaron Smith* is recalled and told he would be asked the above question. He desires the form of the Oath might be read to him. He withdraws. He is recalled and told this question: Whether in the Affidavit you made in the King's Bench you meant two witnesses against E. Huntingdon were not ready, and the Oath shall be constrained to that.

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* "It was proposed," says Ralph, "that the recognizances might be removed to the House of Peers, as the Supreme Court, but the Lord Chief Justice Holt undertaking to show that it could not be done, the House acquiesced in his opinion, and the motion was dropped" (ii. 389). No such "motion," as will be seen above, was ever made.

† A marginal note in MS. Min., at the head of these proceedings, states: "Nothing to be entered."

A. I beg I may see my original Affidavit. Q. Whether there were two witnesses against E. Huntingdon? He withdraws. *Agreed* to ask him, Whether at the time that [he gave his evidence] *the E. Huntingdon was remanded by the Court of King's Bench*, [he knew there were two witnesses against his Lordship] *there were two witnesses?* * He is recalled again and asked:† Whether, at the time the E. Huntingdon was remanded by the Court of King's Bench, there were, to your knowledge, two witnesses upon oath for high treason against his Lordship? A. I desire time to peruse papers. He withdraws. He is recalled again and told by the Speaker he is to offer the question to him once more, which he did. He desires to see his own Affidavit. He was then sworn and answered:† I cannot say that there were two witnesses upon oath. There was other evidence. There was one upon oath. *Moved* to ask the L. C. Justice whether one witness upon oath is a sufficient ground for remanding a person upon the Habeas Corpus Act? *Holt, C. J.:* If it appears to us there is but one, we ought to bail. *L. C. Baron* [*Atkyns*] heard: It is agreed there ought to be two witnesses, and if one positive and yet another prove the same treason, they are both to the fact. *Gregory, B.:* Is of the same opinion. *Moved* to ask the Judges whether one witness upon oath, with other circumstances, is enough to remand any person? *Holt, C. J.:* If the circumstance be not upon oath, it is no evidence.‡ Then the House, on motion, appointed a Committee to draw an Order "for explanation of this Act" on the debate. (MS. Min.; L. J., XV. 108.)

On 11 Nov. this Committee met, and after reading the seventh paragraph of the Habeas Corpus Act, on *Question*, Whether an Order shall be now made, it was resolved in the *Affirmative* by 7 votes to 4. The Order was then agreed to and ordered to be reported. (Com. Book.)—The House, on receiving this Report, consisting of a Resolution drawn by the Committee, which was read, ordered all the Judges to attend the next day. The Warrant for the commitment of E. Huntingdon read. *E. Marlborough* complains of his being committed. *E. Scarsdale* complains of his being in a Proclamation,§ and desires it may be enquired into. *Ordered* that the debate be adjourned till tomorrow. (MS. Min.; L. J., XV. 109.)

On 12 Nov. the Resolution reported from the Committee is read as follows:—It is Resolved, by the Lords, &c., That it is the duty of the Judges of the Court of King's Bench, and Justices of Oyer and Terminer, or General Gaol Delivery, in pursuance of the said Statute, to set at liberty the prisoner upon bail, if committed for high Treason (Comp. L. J., XV. 111). *Holt, C. J.:* The Act of Parliament does

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* The words of this question in italics were substituted for those in square brackets.

† *See* Annex (*c.*) below. Luttrell says that Aaron Smith swore that there was one witness against the Lords, but that he "would not be positive" as to a second; Ralph states that on being required at first to answer on oath whether he had two witnesses against "each of the Lords," he "refused till threatened to be committed" (ii. 390).

‡ Ralph (ii. 389) has the following note on the proceedings this day: "The Judges managed their own defence in such a manner as gave Mr. John Hampden occasion to say 'that the very same opinions were now delivered for law, which King Charles' and King James' judges were infamous for.' 'It is but a few days ago,' continues he (*Short Considerations*, p. 18), 'that some of the judges declared in the Lords' House that one witness to a principal treason and another to a circumstance was sufficient to convict a man that is indicted for treason; which was the worst of all the opinions delivered upon the Bench by the late Chief Justice Jeffreys.'"

§ Annex (*d*).

HOUSE OF LORDS MSS. 1692.

not intend that they should [say the] *be* witnesses [are] upon oath.* *Treby, C. J.:* I am of the same opinion, that by "witnesses" here are not intended witnesses upon oath. "Witness" in this case I take to be a person capable of giving testimony. *L. C. Baron [Atkyns]:* A man cannot be convicted without two witnesses upon oath; but I am clearly of opinion in this case that there need not be witnesses upon oath. *Dolben, J.:* I am of the same opinion. *Powell, J.:* I am of the same opinion, that witnesses unsworn are within this Act. *Gregory, J.:* I am of the same opinion. *Lechmere, B.:* We are the interpreters of the law. I am of the same opinion with my brothers. I think it was the duty of the Judges to remand the Lords or other persons. *Rokesby, J., Eyres, J., Turton, B.*, and *Powell, B.*, each added: I am of the same opinion. Affidavit of Aaron Smith read. Judges asked, Whether by "witness" anything is meant but "person"? *Holt, C. J.:* I am of opinion that by "witnesses" is meant "persons." The Judges heard as to the Affidavit. *Holt, C. J.:* I am of opinion the Affidavit is pursuant to the [Act]. It is as full as the Act itself. It is as full as a counter tally to another. The House then ordered the Resolution of the Committee to be re-committed to a Committee of the whole House † on the 14th. (MS. Min.; L. J., XV. 110.)

On 14 Nov. in C. W. H., Lord Cornwallis in the Chair, the Resolution was read. The Clause in the Statute Book read. *Moved* to agree that there should be two witnesses against every prisoner, though not upon oath, and that it is not requisite they be both upon oath. The Resolution is read again, and it is agreed that the words "upon oath" be left out. Some words agreed to be added to the Resolution, and after some time spent therein, the House was resumed, and L. Cornwallis reported the Resolution as now amended. The same was read twice,‡ and, after debate thereon and leave given to protest on either side, on *Question:* Whether to agree with the C. W. H. in this Resolution? Resolved in the *Affirmative*. Contents, 35; Not-Contents, 28. Tellers, E. Stamford and L. Delawarr.§ *Ordered* that the complaint of E. Scarsdale‖ be considered tomorrow. (MS. Min.; L. J., XV. 111.)

On 15 Nov. the Warrant for searching for E. Scarsdale was read, as well as the Proclamation for apprehending him. *Moved*, that the House go into consideration of the ways or means to discharge the bail that E. Huntingdon and E. Marlborough lie under. *Moved*, that an Address be made to his Majesty for taking off the bail of these Lords.¶ Then, after debate on how to discharge the said bail, and about E. Scarsdale, the debate adjourned till the 17th. (MS. Min.; L. J., XV. 112.)

On 17 Nov. the House merely ordered the consideration of what should be entered in the Books concerning this matter to be adjourned till the next day (MS. Min.; L. J., XV. 114), when, the House being

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* The word in italics is substituted for those in square brackets.

† The original order was to recommit the Resolution "to the same Committee."

‡ An expunged entry here adds: "Some Lords moved that the Judges might be heard. The L. C. Justice Holt heard."

§ Ralph (ii. 390) states that this division was taken "after a fierce debate, which lasted several hours."

‖ "The Anti-Court Lords becoming sensible of their strength, the Lord Scarsdale made a new complaint, that his house had been searched by one of the King's messengers."—*Ralph*, ii. 390.

¶ "After the debate had lasted several hours, it was hinted, by way of expedient, to the House, that his Majesty would cause them to be discharged the next day. This was accepted, but with so much caution, that they would hear of no other business till they were assured the thing was done, and, to avoid any surprise, adjourned till the 17th."—*Ralph*, ii. 390.

informed * that the Lords' bail in the Court of King's Bench had been discharged, the matter dropped. (MS. Min.; L. J., XV. 115.)]

Annexed :—

(*a.*) 8 Nov. Copy similar Warrant for commitment of John, Earl of Marlborough. *Signed* by same as in above, with the exception of Devonshire, Mountague, Newport and Ranelagh.

(*b.*) 8 Nov. Copy Affidavit of Aaron Smith, as follows :—

The King and Queen against the Lord Huntingdon and others. Aaron Smith maketh Oath that there is evidence against the several persons hereafter named, viz^t^, the Lord Huntingdon, the Lord Middleton, the Lord Dunmore, Sir Andrew Forrester, Sir Solomon Swayle, Col. Ambrose Norton, Major William Cullwert, Austin Mathewes, George Newton, Clerk, and Jeremy Collier, Clerk, for the high Treasons for which they respectively stand committed, and also against Thomas Marshall, but that the witnesses for their Majesties against them or any of them could not be produced this term.

Jur. 14 die Junii, Anno regni Regis et Reginæ nunc 4° coram. J. HOLT. AARON SMITH.

This is a true Copy of the Affidavit of Aaron Smith, filed in the Crown Office the last Trinity term, and examined the seventh day of November 1692 by me Robert Seyliard, Clerk of the Rules in the said office. *Endorsed* as read before the Committee this day. [*See* Notes above.]

(*c.*) 10 Nov. Paper *endorsed* "Mr. Aaron Smith's Question and Answer." [*See* Notes above.]

(*d.*) 11 Nov. Printed Proclamation for the discovery and apprehension of Robert, Earl of Scarsdale, and others. *Dated* Whitehall, 9 May 1692. London Gazette, No. 2,765. *In extenso.* [*See* Notes above under date.]

582. Nov. 9. Writ of Summons (L. Capel).—Writ of Summons to Henry Capell de Tewkesbury, Chr., who was introduced and took the Oaths this day. *Dated* 4 Nov. L. J., XV. 106. *In extenso.*

583. Nov. 9. Privilege of King's Servant (R. FitzGerald).—Petition of Robert FitzGerald, Gentleman of the King's Privy Chamber for the last 30 years, complaining of having been arrested at the suit of John Pye and others, and praying to be set at liberty. L. J., XV. 107. The truth of the Petition is certified by Dorset, 31 Oct. 1692. [The Committee for Privileges, after reading the Petition and the Certificate from the Lord Chamberlain, as well as the precedents of Thayre and Redish† and Stepkin‡ (Priv. Book, 21 Nov.), reported on 22 Nov. that Fitzgerald had privilege in the case, and the House, thereupon, ordered him to be discharged. (L. J., XV. 121.)]

584. Nov. 9. E. Bath *v.* E. Mountague (Privilege).—Petition of John, Earl of Bath, Bernard Granville, Esq., and Sir Walter Clarges, Bart. The late Christopher, Duke of Albemarle, only son and heir of General George, Duke of Albemarle, having no children, and

* The beginning of an expunged entry in MS. Min. of 18 Nov. states : "The Lords acquainted the House this day that their bail" . . .

† L. J., XIV. 632.

‡ *Ib.*, 592.

HOUSE OF LORDS MSS.

1692.

being also unfortunate, as he often used to express, in having his next heir descended from one of the Regicides, was ever solicitous, after his father's example, to prevent his estate from so dishonourable a descent, and so ungrateful to the Crown, especially considering that a great part thereof came from thence, and all the rest (except only the ancient estate of his family, which fell to his right heir at-law) was by purchase a fee simple estate, and so in his own free disposal, and therefore thought fit to settle the same amongst such others of his nearest kindred as he knew most deserving, and best in esteem with himself and Duke George his father. Accordingly, in July 1675, he devised by will among Petitioners and others his nearest kindred, the inheritance of all his lands in certain proportions, whereof the Petitioner E. Bath had the greatest share, according to the expressed intentions of the testator and his father. Six years afterwards, the testator found himself subject to the importunities of one whom he could not at all times deny, and, therefore, to establish his settlement in such a manner that it might be free from being defeated by any compliance he might give for his own ease or his Duchess's health, he sealed in 1681 the inheritance of his estate to the use of Petitioners and other his nearest kindred, the greatest part thereof after the death of the Duchess, reserving in the deed a power of revocation under certain self-imposed rules. In 1687 he was prevailed with to seal another Will, without noticing therein the previous Will or Settlement, but, as proof that he meant the settlement to continue in force, he ordered, before leaving for Jamaica, where he died, the keys of his evidences to be left with the Petitioner, E. Bath, who, he said, would be chiefly concerned with them after his death; all which is fully in proof by depositions in Chancery, and was also proved *vivâ voce* on a trial in King's Bench. Since the said Duke's death, his Duchess brought her Bill in Chancery, and one Christopher Monck (who is really no way of kin to the Duke) another Bill, both to the same effect, for establishing the Will of 1687, and setting aside the deed of 1681, as revoked in equity, the Duchess claiming some more valuable interest for her life by the Will of 1687 than by the said deed, and Monck claiming thereby the inheritance of all such lands as were settled by the deed on Petitioners; and Petitioners brought their Bill against the Duchess and Monck and others to prove and support the Will of 1675 and deed of 1681, and to discover and apply the personal estate for payment of the Duke's debts, so as to clear the lands chargeable therewith, and to discover and secure the evidences relating to the said estate. The causes being heard on 4 July 1691, the Lords Commissioners ordered a trial in ejectment at the King's Bench Bar for trial of the right of the Wills and deed; and at this trial the jury gave a verdict for Petitioners. The Court of Chancery, after appointing a day to deliver judgment, was unexpectedly stayed by the Duchess's marriage with E. Mountague, whereby the suit in her name abated. E. Mountague not thinking fit to revive it, Petitioners prayed the Court to determine the cause wherein the Moncks are Plaintiffs and wherein the Duchess is in no way concerned but as an amicable Defendant for form only, but the said Earl of Mountague obstructs it by insisting on his privilege, though E. Bath's privilege has already been taken off by order of this House,* and the Duchess has profited thereby. Pray that the Court may be at liberty to proceed to a Decree. L. J., XV. 106. [In Committee for Privileges on 21 Nov., E. Stamford in the Chair, Counsel were called in. *The Attorney General* (for E. Bath): We desire we may not be hindered by E. Mountague's privilege in two causes. States the causes. In

* *See* Calendar, 13th Report, No. **308.**

the cause wherein the Moncks are Plaintiffs neither E. Mountague nor the Duchess have any concern at all. The Duchess will receive no prejudice by determination of the cause wherein E. Bath is Plaintiff. The Duchess is a bare trustee for E. Bath or the Moncks as to the plate, for she was to have it only during her widowhood. The case is the same as to the household stuff. As to the writings, they are secured in the evidence room in New-hall. The Duchess has one key, and the Earl the other. *The Solicitor General* (for E. Bath) : Shows how far these causes have proceeded without standing on privilege. The Duchess cannot suffer by these suits. She stands and falls by her own Bill. *Mr. Finch* (for E. Mountague) : There cannot possibly be any decision in these suits without his Lordship being concerned therein. The Duchess never had any privilege till now, and it is not possible to have any procedure in this matter without her being concerned. *Sir Thomas Powys* (for E. Mountague) : If they can proceed against Monck without affecting E. Mountague, they need not fear a breach of privilege. There cannot be one step made, but it must be in opposition to the Will of 1687, whereby E. Mountague claims. The dismission of Mr. Monck's Bill is no less than the determination of my Lord's title under the Will. They withdraw, and after debate, *Ordered* to report that E. Mountague has privilege in this case. (Priv. Book.) This report was made and agreed to the next day. (L. J., XV. 121.)]

585. Nov. 19. Newton *v.* Ballett.—Petition and Appeal of James Newton. The Respondents, being seized of some messuages and gardens, held by Appellant from their father, the late Dr. Ballett, at a lease for 17 years determinable at Christmas, 1691, and of other messuages and grounds in Garden Alley and Clerkenwell Green for a term of years determinable at Midsummer, 1692, applied in 1689 to the Respondent John Ballett, then in Essex, for a further term of the premises, and it was agreed in writing that in consideration of 100 guineas then paid by Appellant to the Respondent John, and 100*l.* and a silver tankard worth 10*l.* to his wife, for the first year's rent, and 150*l.* yearly afterwards, Appellant should have a further lease for 100 years from Midsummer, 1692, and for another 100 years longer, if his executors desired it, John Ballett to pay the ground landlord's taxes and his wife to join in a fine to confirm the said term. Appellant paid him the 100 guineas, but Ballett refused to sign the lease when offered to him. Appellant then brought a Bill in Chancery to have the agreement performed. Ballett pretended surprise, and put in a Cross Bill. The Lords Commisioners on 15 April 1692, on hearing both causes, dismissed Appellant's Bill and ordered the agreement to be set aside. Prays that the Decree may be reversed. *Signed* by Appellant ; *Countersigned* by Wi. Williams. L. J., XV. 107. [The Cause was heard on 3 Dec. *The Attorney General* (for Appellant) opened the case. *Sir William Williams* (for Appellant) : The Articles we keep close to, and the 100 guineas paid. The Articles made a penalty of 4000*l.* on each. They were deliberately made and considered. *The Solicitor General* and *Mr Finch* argued for Respondent, and several depositions were read. After debate, *Question* put, whether the Decree shall be reversed ? Resolved in the *Negative*. Contents, 19 ; Not-Contents, 24. Tellers, E. Scarborough and E. Warrington. *Ordered* that the Decree be affirmed. (MS. Min. ; L. J., XV. 133.)]

Annexed :—

(*a.*) 17 Nov. Petition of John Ballett, Gent., and Mary, his wife, Respondents, for a week's further time to answer. *Signed* only by John Ballett. L. J., XV. 113.

HOUSE OF LORDS MSS.

1692.

(*b.*) 17 Nov. Petition of Appellant. Complains that Respondent John Ballett has assaulted one Cornelius Hall, whom Appellant had sent to serve the order to answer. L. J., XV. 113. [*Hall*, being called in and sworn this day, said he served an Order on Mr. Ballett. "I delivered what I was ordered. Mr. Ballett called his man, and he beat me, he struck me in the face. Mr. Ballett himself came twice towards me." *Ordered*, that Ballett be attached. Later on in the sitting, the House being informed that he was attached, *Ballett* was brought to the Bar and desired time to examine his witnesses. *Ordered*, that Ballett and Hall attend on the 19th (MS. Min.).—On 19 Nov. *Ballett* was brought to the Bar, in custody of Black Rod, and the Petition against him was read. He said: "It is false what is sworn against me. I ordered him to go into the kitchen, and I would send him meat and drink. I did not strike him, or order him to be struck. (MS. Min. No entry in L. J.) Ballett was discharged on his Petition (Annex (*d*) below) on the 21st.]

(*c.*) 19 Nov. Answer of John Ballett and Mary, his wife. Appellant, a stranger to the Respondent John, applied first to his uncle Dr. Charles Ballett, and afterwards to Respondent, who was ignorant of the nature and value of the estate and of his title thereto, to have a lease of the premises, having conspired with Charles Ballett to defraud Respondent of the estate and share it between them. For this purpose, Respondent was brought to London by his uncle and introduced to Appellant, and after being taken about from tavern to tavern, was inveigled into signing the Articles, which were most unreasonable, the rents of the premises being then above 400*l.* a year, and there being six acres of ground capable of great improvement. The Articles were proved to have been obtained by fraudulent combination and surprise. Pray that the Appeal may be dismissed with costs. *Countersigned* P. Bowes. *Endorsed* as brought in this day.

(*d.*) 21 Nov. Petition of John Ballett, Gent., to be discharged from the custody of Black Rod. L. J., XV. 118.

(*e.*) 8 Feb. 1692-3. Petition of Appellant. The Court of Chancery, in their decree, which has been affirmed by the House, made no provision for restoring to Petitioner the 100 guineas in respect of what Petitioner had laid out on the premises, and the House gave no directions compelling Ballett to repay it to Petitioner. Prays their Lordships' directions in this matter. L. J., XV. 220. [Counsel were called in on 15 Feb. on this Petition, when, Appellant's counsel not appearing, the hearing was adjourned to the 20th, and then again to the 23rd (MS. Min.). On 23 Feb. *Sir William Williams* (for Appellant): We would have our charges. *Mr. Bowes* (for Respondent): We will pay our 100 guineas. *Ordered* that the 100 guineas be restored to Mr. Newton by Mr. Ballett. (MS. Min.; L. J., XV. 245.)]

586. Nov. 11. Writ of Summons (E. Carlisle).—Writ of Summons to Charles, Earl of Carlisle. *Dated* 10 Nov. [Sat first in Parliament this day after the death of his father. L. J., XV. 109.]

587. Nov. 14. Privilege of King's Servant (W. Killigrew).—Petition of William Killigrew. Petitioner, a Gentleman of the Privy Chamber to his Majesty and in actual waiting, was arrested in the City on 9 August last, without leave from the Lord Chamberlain, by one Sparkes, a Serjeant of the Poultry Compter, in an action of 100*l.* at the

suit of Abraham Beake, whose name was made use of by Thos. Joyner, a pretended creditor. After his arrest, Joyner laid an action of 100*l.* in his own name for the said debt, pretending that he had paid 50*l.* twelve years ago for Petitioner, and refused to discharge him though he produced a certficate of being sworn a Gentleman of the Privy Chamber. Petitioner was thereupon turned over to the King's Bench, where he is now a prisoner, on two 100*l.* actions, as appears by the paper annexed to his Petition. Prays their Lordships to relieve him, by supporting the privilege of his Majesty's Servants. L. J., XV. 110. [Killigrew was discharged on 22 Nov. on report from the Committee for Privileges (Priv. Book, 21 Nov.) that he had privilege in the case. (L. J., XV. 121.)]

Annexed :—

(*a.*) 14 Nov. Copy of Actions, referred to in Petition, as appended thereto. *Noted* as taken out of the Book by the Clerk of King's Bench.

588. Nov. 14. Meyrick *v* Hughes.—Petition and Appeal of Edmund Meyrick, Esq., and Elizabeth, his wife, Richard Kyffin, Esq., and Jane, his wife. The Respondent Hughes, having borrowed of Robert Price, of Geeler, co. Denbigh, the sum of 100*l.*, repayable by 20*l.* a year in 7 years, executed as security in 1668 to Price and his wife Katharine a lease for 14 years of lands in Bryntanger in that county at a pepper-corn rent for payment of 20*l.* a year, covenanting that the lands were of that yearly value and unincumbered. Price by will made his wife executrix and devised 100*l.* to the Appellants Elizabeth and Jane, and his wife died after him, making the Respondent Harding her executrix. Hughes received all the profits of the lease-land during the 14 years, and never paid anything to Price or his wife or Harding, so that the 100*l.* with interest now amounts to at least 238*l.* Harding spent all the personal estate except the debt in the hands of Hughes, which she agreed Appellants should have in discharge of their legacy, amounting with arrears of interest to 226*l.* To recover this sum, Appellants in 1683 brought a Bill in Chancery against Respondents, but although Harding admitted the arrangement as to debt, Sir John Trevor, Master of the Rolls, on 7 May, 4 Jac. II., dismissed the Bill with costs. Pray that this dismission may be set aside, and Respondents ordered to answer. *Signed* by Appellants; *Countersigned* by Will. Dobyns and Ro. Price. All the signatures are copied. L. J., XV. 110. [The Cause was heard, and the Decree reversed on 22 Dec., *Sir Thomas Powys* and *Mr. Dobyns* being heard for Appellants, and *Sir Ambrose Phillipps* for Respondents. (MS. Min.; L. J., XV. 161.)]

Annexed :—

(*a.*) 5 Dec. Answer of Charles Hughes. Respondent's father, Humphrey, in consideration of Respondent's marriage, settled the lands on trustees with power to charge them with an annuity not exceeding 30*l.* to such persons as he should appoint, and by his will he charged them with the said annuity payable to Hugh and Jane, Respondent's brother and sister. Respondent never meddled with the lands during his father's lifetime, but by order of his father, and after his death constantly paid the annuity. As for the pretended deed of mortgage and bond for performance of covenants, Respondent does not remember any such deed, and the term of 14 years has long elapsed, and such estate as was thereby granted is determined. He knows nothing of any legacy or wasting of the estate by Harding. He never

HOUSE OF LORDS MSS.

1692.

borrowed anything of Price for his own use, and if anything was borrowed by his father, it was by him repaid. Since the Decree complained of, Appellants have caused Respondent to be arrested in an action at the suit of Harding, and have brought a new Bill in Chancery, without informing their Lordships. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Ambrose Phillipps. All the signatures are copied. *Endorsed* as brought in this day.

(*b.*) 6 Dec. Answer of Anne Harding. Respondent, being arrested by Appellants for the legacy, offered to assign to them Charles Hughes' debt as satisfaction, having no other assets. It was proved that Hughes received the profits of the lease lands during the 14 years. There were no proceedings on the action at law against Respondent, who is still willing to assign Hughes' debt in discharge of the legacy. *Signed* by Respondent; *Countersigned* by Henry Lloyd. *Endorsed* as brought in this day.

(*c.*) 25 Feb. 1692–3. Petition of Appellants. The House having reversed the decree appealed from, Appellants applied to the Lords Commissioners for a rehearing, but were refused, on the ground that no direction had been given by the House for that purpose. Pray that they may be ordered to hear the cause with such direction as the House shall think fit. L. J., XV. 249.

589. Nov. 14. Muschamp *v.* Burton.—Petition and Appeal of Henry Muschamp. Respondent lately appealed to the House from an Order in Chancery of 17 Dec. 1690 setting aside the enrolment of a supposed decree by L. Chancellor Nottingham of 15 Nov. 1670; and their Lordships were pleased to discharge the former order, and the subsequent ones founded thereon.* Prays their Lordships to set aside the enrolment of the supposititious decree, so that Petitioner may be at liberty to proceed, and that Respondent may be ordered to answer. *Signed* by Appellant; *Countersigned* by Wi. Williams and T. Powys. L. J., XV. 110. [This Appeal was dismissed on 21 Nov. (L. J., XV. 119), on reading Burton's Petition of date (Annex (*a*) below). For further proceedings see Notes to Annex (*b*).]

Annexed:—

(*a.*) 21 Nov. Petition of Philip Burton, Gent. Sets forth the proceedings below. Petitioner has already spent above 2,000*l.* and is likely to lose the money decreed him, Appellant being a prisoner in the Fleet. Prays not to be put to further charges by a Petition that seems to draw into examination again the same matters which have been already heard and determined by their Lordships. L. J., XV. 119.

(*b.*) 12 Dec. Petition of Appellant. Their Lordships have dismissed his last Petition of Appeal, on the Respondent's suggestion that it dealt with matters already determined by the House. Respondent, as the Receiver appointed under the Act of 22–23 Car. II., is alone accountable for the profits of Sir W. Clerke's trust estate, and not the trustees, of whom Appellant is one. The trustees called on Respondent for an account, and the latter procured a Report, dated 16 Feb. 1679. Appellant taking exceptions to this Report, the Master made another one in 1685, which showed Respondent a debtor to the trust in the sum of 2,687*l.*, instead of a creditor. Respondent excepting to this

* L. J., XIV. 669, 694, and Calendar, 13th Report, No. 456.

Report, the L. Chancellor Jeffreys confirmed the first Report, and set aside the last one. Appellant does not appeal against the irregularity of the enrolment of any order or decree, but insists that the decree of 29 Feb. 1687 was wrongfully pronounced, the same being to confirm a report contrary to the Act of Parliament, and set aside a Report pursuant to the directions of the said Act. *Signed* by Appellant; *Countersigned* by Wi. Williams and Nicho. Courtney. L. J., XV. 144. [Counsel were heard in the Cause on 13 Feb. 1692–3. *Sir William Williams* (for Appellant): There was an Act passed for payment of the judgment debts. It takes the estate out of Sir William and puts it in these trustees, and the trustees to name a Receiver, and he to give security. The trustees deputed Burton to receive. By the Report there is due to us above 2,000*l.* L. Jeffreys confirmed and ratified Burton's Report. We pray the L. Jeffrey's Decree may be laid aside and that the Report of 1685 may stand. *Mr. Poley* (for Appellant): If Burton has paid the money, he has mispaid it. He has not proved any money paid. The error, we say, is in L. Jeffrey's decree, which destroys the Report for us. Reads the last decree, wherein the Report is recited. Report of 1685 read. L. Jeffreys damns this Report. The judgment debts were to be first paid. *Sir William Whitelocke* (for Respondent): Mr. Muschamp has been harassing Mr. Burton for 16 years already, and would be as many more. In 1671 the Act was made, and he was got into debt. Mr. Burton had deputation from the trustees, and he is to account for them. He paid as the trustees directed. He had their hands to his payment. 'Now,' says Mr. Muschamp, 'you shall pay the money again.' When we came before the Lord Chancellor, it appeared that we had paid as we ought. This has been nine times confirmed. *Mr. Finch* (for Respondent): Recites the Act, and the Receiver to be accountable. In 1675 there is a Bill brought by a judgment creditor, and then a Bill brought by Mr. Burton and the trustees, and the account was taken and several times confirmed. Recites all the confirmations and Reports. In July 1680 this Order was made. Until 1685 we hear nothing of Mr. Muschamp. The L. Keeper North hears the whole case again. In 1683 it was confirmed, and in 1685 L. Jeffreys says: 'If you will get a Report by November, you shall have time.' He lets it alone, and comes in December, and gets a Report behind our backs. We complained of this, and the Court sets it aside, and then Muschamp desires a rehearing, and the L. Jeffreys confirms all the rehearings and sets aside the Report. Then he brings a Bill of Review, and there says Burton was still chargeable, before the Commissioners, and they confirmed it. Then he applies to the present Commissioners and desires the opening of the Cause, and they then heard us. We complained of this, and the House set aside that order. *Sir William Williams* (for Appellant) heard in reply. Counsel withdrew, and the Speaker having reported, the House dismissed the Appeal, and affirmed the Decree of 29 Feb. 1687–8. (MS. Min.; L. J., XV. 227.)]

(*c.*) 22 Dec. Answer of Philip Burton, Gent. Recites proceedings below. Respondent has been harassed by Appellant in Chancery for 16 years at the expense of over 2,000*l.*, and is likely to lose the 1,080*l.* reported due to him, Appellant being

HOUSE OF LORDS MSS.

1692.

a prisoner in the Fleet and insolvent. Prays that the Decree may be confirmed with costs. *Signed* by Respondent; *Counter-signed* by W. Whitelocke. *Endorsed* as brought in this day. *See also* MS. Min. of date.

(*d.*) 14 Feb. 1692–3. Petition of Appellant. He can prove that the Master in his Report allowed Respondent 6,477*l.* without any orders from the trustees for payment thereof, or any proof of such payment. Prays to be heard touching the error in the Report. [Offered this day and ordered to be dismissed. L. J., XV. 229.]

590. Nov. 15. Attorney-General, on behalf of the town of Oundle, &c. *v.* Barton.—Amended* Petition and Appeal of Sir John Somers, Knt., their Majesties' Attorney-General, on the behalf of the several towns of Oundle, Tansor, Cotterstock and Glapthorne, in the county of Northampton. Clement Bellamy, by will dated 12 Oct. 1658, devised his real and personal estate, worth above 1,000*l.*, to John Norton, father of John Norton and grandfather of Doyley Norton, Defendants below, to be disposed of for such poor people and charitable uses as Norton should think fit. The latter, by his will of 9 March 1662, directed his son, by the advice of L. C. Baron Mountague, a trustee in the settlement of his estate, to settle lands worth 20*l.* a year for placing out as apprentices and at the University the poor boys to be born in one of the said four parishes, and to facilitate the performance of the trust, gave him and his heirs, by a later clause, the Holme with the 10 acres of meadow next Tansor field, and what else he bought of Mr. Henry Pickering, and charged the same with the charity. Norton died, leaving a very large estate to his son, who for several years duly paid the money, and as the lands particularly charged were sufficient to answer it, the parishes were not solicitous to have other lands settled, the clause being only in favour of Norton the son, in case he found it convenient to substitute other lands for those particularly charged. But the son afterwards taking to extravagant courses, and beginning to sell and mortgage parts of his estate, and falling in arrear with the charity, some of the parishes in 1684 sought relief under a Commission of Charitable Uses then on foot. The Commissioners decreed payment with arrears, but omitted, by neglect of the Solicitor for the parishes, to charge the lands particularly set apart, and Norton being then a prisoner, the parishes could get no advantage from the Decree. Accordingly, in 1685, by the advice of Counsel and the then Bishop of Peterborough, an Information was exhibited in the Attorney-General's name, at the relation of the parishes, for recovery of the charity, in which all persons interested in Norton's estate were made Defendants. Among these, Thomas Barton, who was in possession of the lands particularly charged, pleaded in bar that he was a purchaser from Filbrigg and Satterthwaite (who had purchased from Norton) for valuable consideration, without notice of the will. His plea being overruled on 29 April 1686 by L. Chancellor Jeffreys, he brought a Cross-Appeal against Norton, Welby, Kirkham and all others who had any part of old Norton's estate, to have other lands settled in discharge of his, or that the other purchasers of the estate might also contribute. Welby and Kirkham, who were mortgagees, submitted to be redeemed on payment of what was due to them, but the other Defendants, who were absolute purchasers, insisted that the lands not particularly charged were not chargeable. The Court on 26 Feb.

* The amendment of the Appeal was caused by the death of some of the original Respondents. Compare L. J., XV. 112 and 118.

1686 ordered Norton, after payment to the mortgagees, to settle lands of sufficient value to satisfy the charity, and discharged those purchased by Barton. Norton was only tenant for life, and he being now dead, and his widow and his son Doyley in possession by virtue of the entail, nothing remains of the estate, to answer the charity, but the lands particularly charged, which are now declared to be exempt. Prays that the Decree may be reversed, and that Barton, Mary Norton and Doyley Norton, Kirkham, Satterthwaite and his wife, Jonathan, the brother, heir and executor of George Welby, and Filbrigg, the nephew and next heir of William Filbrigg, and Dr. Arnold and Richard and John Filbrigg, trustees of Filbrigg, since deceased, may be ordered to answer. *Signed* by J. Somers and Thos. Powys. L. J., XV. 112. [The Cause was heard on 2 Jan. 1692–3. *Mr. Finch* (for Appellant) opens the case. The question is, whether notice or not. We shall prove notice in Filbrigg and Barton also. *Sir Thomas Powys* (for Appellant): The Will is plain in this case. States the parts of the Will. They read old John Norton's Will. Depositions of Hicks and others read. *The Solicitor-General* (for Respondent Barton): The Court below, I hope, has given a very just decree. A jury has found we had no notice for Barton, and discharged my client. This was before the Commissioners for Charitable Uses. They never excepted against this Decree; they acquiesced under it. In 1685 they exhibit this Information against my client, and in 1687 the Chancery dismissed the Bill to my client, and they did right, as will appear by the witnesses they examined and read. There is no colour of proof at all of notice. *Mr. Ward* (for Respondent Barton): The question is only whether my client Barton had notice or not. We are the person within the Act of Parliament without notice. We have sworn no notice at all, and the Law Books say general notice is no notice. It has passed an Inquisition in a legal (*sic*). *Sir William Whitelocke* (for the other Respondents): But I find nothing affects them. *Mr. Jennings* (for Satterthwaite and wife): But I see nothing affects them. *Mr. Finch* and *Sir Thos. Powys* heard in reply. Counsel withdrew, and Speaker reported. After debate, the House ordered the Dismission of 22 Feb. 4 Jac. II. to be reversed. (MS. Min.; L. J., XV. 170.) See further Annex (*e.*) and Notes.]

Annexed:—

(*a.*) 3 Dec. Joint and Several Answers of Thomas Barton, Senior, Gent., Thomas Arnold, Doctor of Laws, Richard Filbrigg and John Filbrigg. The Respondent Barton knows nothing of the Wills of Bellamy or old Norton. He purchased in 1669 the Holme and osier beds for 500*l.*, without any notice of the Charity, from George Colewell and Margaret his wife, George being nephew to Arthur Colewell, who had purchased them in 1664 from Norton the son; and in 1670 he purchased the 10 acres from William Filbrigg, to whom young Norton had sold them in 1664. Barton's purchases were made in the name of Sir Lewis Palmer, William Colby, since deceased, and Mathew Johnson, as trustees. Filbrigg also purchased from young Norton for valuable consideration and without notice of the Charity. Pray that the Appeal may be dismissed with costs. *Signed* only by Tho. Barton and Tho. Arnold. *Endorsed* as brought in this day.

(*b.*) 29 Dec. Answer of Bryan Satterthwaite and Margaret his wife [*sign* Saterthwaite], late wife of George Colewell, deceased. Arthur Colewell, late father of the said George, purchased the Holmes and osier beds of young Norton, and Respondents sold them to Barton, without ever having any notice of the

HOUSE OF LORDS MSS.

1692.

Charity. Pray that the Appeal may be dismissed with costs. *Endorsed* as brought in this day.

(*c.*) 29 Dec. Joint and Several Answers of Mary Norton, widow, and Doyley Norton, Esquire. The Charity was publicly known in the neighbourhood, and must have been known to the purchasers of the lands particularly charged, being inhabitants in and near the towns concerned. Barton was employed by young Norton as his solicitor on his father's death, and on purchasing the premises, took a covenant from William Filbrigg to discharge him from the Charity. The rest of old Norton's real estate is of small value to Respondents, most of it having been sold or encumbered by his son, or withheld from him by pretended purchasers. The lands now wrongfully withheld by the other Respondents were settled on the Respondent Mary and her children in consideration of her marriage portion, long before the Will was made, and neither old Norton nor his son had any power to charge them beyond their own lives. Pray that the Appeal may be dismissed. *Endorsed* as brought in this day.

(*d.*) 29 Dec. Joint and Several Answers of Charles Kirkham, Esq., and Jonathan Welby, Clerk. The Charity was commonly discoursed of in the neighbourhood. Kirkham's ancestors owned the manor and rectory of Cotterstock and other lands there worth about 200*l.* a year, and Walter, his late father, was forced, as a delinquent for his loyalty to Charles I., to surrender his interest therein, part of which was conveyed to old Norton, then a man of great authority, and part appropriated to the use of preaching Ministers. At the Restoration, the latter part was restored to him by Act of Parliament, and the part held by Norton was subjected to the rentcharge of 100*l.* for the Ministers. Norton's son, who succeeded to the estate, falling in arrear, the Respondent Kirkham's mother entered, as she was entitled, on the rectory and premises, and now holds them with Respondent her son. The latter is ready to give up possession, on payment of the rentcharge and arrears, to whomsoever the rectory and premises of right belong, but his own right being settled upon him before the Will which created the Charity, and other lands being particularly charged with the Charity, the premises subjected to the rentcharge should be free therefrom. Respondent Welby's brother was a *bonâ fide* purchaser from young Norton, and Respondent Welby has since conveyed away the lands. The Charity should be paid by the lands particularly charged. Pray that the Appeal may be dismissed with costs. *Endorsed* as brought in this day.

(*e.*) 11 Feb. 1692–3. Petition of Appellant. Since the reversal by their Lordships of the Decretal Order complained of, application has been made to the Lords Commissioners to put their Lordships' Order in execution, so as to charge the lands with payment of the Charity and arrears, but the Lords Commissioners being of opinion that the Order of reversal does not fully warrant them to give such directions, have left Petitioner to apply further to the House to enlarge their order on that point. Prays their Lordships to direct accordingly. *Signed* J. Somers. [Read this day and Judgment amended. L. J., XV. 224.]

591. Nov. 15. Dowley *v.* Bagnall.—Petition and Appeal of John Dowley. Appellant and Respondent's testator in 1672 entered into partnership for 5 years as haberdashers of small wares in London, with

an equal stock in trade. Appellant was to keep Bristol and Gainsborough fair and testator Holden, Beverley and Lenton fairs. Neither party was to take an apprentice without the consent of the other, and all losses were to be borne in common. A general account was to be made up yearly, and if either party died during the five years, the survivor was to take the whole stock and, after paying off all debts, hand over a moiety to his representative in three payments. If the partners agreed to end the partnership at the close of the five years, three months more were to be allowed for settling accounts and disposing of wares. When this time arrived, namely on 30 Dec. 1677, testator prevailed with Appellant to continue by bonds for another year ending 11 Jan. 1678–9, when Appellant, taking notice of certain bad debts, amounting to about 1,400*l.*, agreed with testator, who was then sickly and infirm, that new articles should be made, by which each party should have profit or loss alike, and the surviving partner should not be overcharged or make good to the representative of the deceased partner his share. Pending the completion of the new articles, which was left to testator, a bond was given to continue the partnership for six weeks upon the old ones. The new articles were delayed by the illness of testator, who finally died on 21 June 1679 without making them; and the partnership having determined in his lifetime, Appellant conceived that the whole estate in trade should be divided, and that he should not be charged with the bad debts of 1,400*l.*, wrongly mentioned as good in the last account, made only by testator, and containing errors to the amount of 500*l.* George Bagnall, the testator's surviving executor, then brought his Bill in Chancery against Appellant, claiming 5,529*l.* as testator's share on the last yearly account, and the Court on 1 May 1689 decreed payment, and that an account should be taken according to the old articles. On a rehearing on 14 May 1690, a fresh account was directed to be taken both ways, viz[t] from the foot of the stated account and from testator's death. Bagnall on 21 Feb. 1690–1 obtained an *ex parte* report from the Master according to the directions in the order of 1 May 1689, finding Appellant indebted to him above 4,000*l.*; and on 5 March 1690–1 the Master, after hearing all parties according to the order of 14 May 1690, certified that the partnership determined on 1 March 1678–9, and that 980*l.* was due from Appellant, which he submitted to pay. On 16 Dec. 1691 the Cause coming again to be heard according to the order of 14 May, the Court confirmed the Order of 1 May, and discharged both Reports. This decree is unjust, being grounded on the supposition that the partnership continued till testator's death. Part of the losses in trade arose from testator's employing dishonest servants, without security for their good conduct, as the articles stipulated. Prays that the Decree may be reversed and Respondent ordered to answer. *Signed* by Appellant; *Countersigned* by Tho. Trevor and Wm. Whitelocke. L. J., XV. 112. [The Cause was heard and the Decree affirmed on 19 Dec., *Mr. Finch* and the *Solicitor-General* being heard for the Appellant, and *Sir Thomas Powys* and *Mr. Filmer* for the Respondent. (MS. Min.; L. J., XV. 152.)]

Annexed:—

(*a.*) 22 Nov. Answer of George Bagnall, Gent., Executor of George Bagnall, deceased. The bad debts of 1,400*l.* were acknowledged in the first articles of partnership, which recited also that the ready money and good debts amounted to 4,000*l.* It was agreed that interest should be allowed out of the joint stock for any sums or stock put in by either party into the trade beyond their joint stock. It was never intended that at the end of five years a partition should be made or the partnership

HOUSE OF LORDS MSS.

1692.

dissolved. Appellant never objected in testator's lifetime that any of the debts reckoned good in the last stated account proved bad ones, nor was it agreed to draw new articles in the terms alleged. The partnership continued on the old terms till testator's death, and was intended to continue for another five years. Under the Decree complained of, the Master has certified 5,853*l.* due to Respondent. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Filmer. *Endorsed* as brought in this day.

(*b.*) 6 Dec. Petition of Appellant for a day for hearing. L. J., XV. 135.

592. Nov. 15. Smith *v.* Duffield. — Petition and Appeal of Robert Smith, Gent., and Mary his wife and Sarah Duffield, which said Mary and Sarah are the sisters and coheirs at law of Andrew Duffield, deceased. Knightley Duffield, on his marriage with Sarah Field, mother of Appellants Mary and Sarah, settled certain lands in Medmenham, Bucks, on himself and wife for their lives, then to their heirs male, failing which, to their daughters, until such time as, if there should happen to be but one daughter, some heir male to Knightley, or such person to whom some estate of frechold or inheritance in the premises should be thereby limited, should have paid to such one daughter 2,000*l.*, or, if two daughters, 1,500*l.* to each. Knightley died in 1665, leaving to his son and executor Andrew certain other lands, not included in the marriage settlement, on trust to sell them and pay 600*l.* to Mary and 700*l.* to Sarah. Andrew paid to Mary her 600*l.* on her marriage with Appellant Smith, and died unmarried, leaving all his estate in Bucks, charged with Sarah's legacy, to his cousin Francis for life, then to his cousin's son Francis in tail, with remainders over; and he gave all his houses in London to Mary and Sarah for life, and after their deaths, to Francis for life, with remainders over, and after legacies of about 1,200*l.*, gave the goods in the manor house to Francis and to go with the house to the next heir, and gave the residue of his personal estate to Mary and Sarah, his Executrices. Petitioners, having a legal estate in the lands comprised in the marriage settlement, brought their ejectment, whereupon Francis brought a Bill in Chancery, pretending that the legacies and the advantage of Knightley's will was a satisfaction in equity of the portions of 1,500*l.* each. On 25 Oct. 1692 the Lords Commissioners decreed in his favour, and ordered Petitioners to deliver up the marriage settlement and convey all their estate in the lands to Respondent, whereby Petitioners, the heirs-at-law of their brother Andrew, are disinherited by his will of the lands, worth 500*l.* a year, devised to Francis. Neither Knightley nor Andrew by their wills put any condition on Petitioners of releasing their portions. Pray that the Decree may be reversed, and Respondent ordered to answer. *Signed* by Appellants; *Countersigned* by Will. Killingworth and Edw. Ward. L. J., XV. 112. *See* also 2 Vernon 177, 258. [The Cause was heard and the Decree reversed on 20 Dec., *Mr. Finch* and *Mr. Ward* being heard for the Appellant, and the *Solicitor-General* (*Trevor*) and *Sir William Whitelocke* for the Respondent. (MS. Min.; L. J., XV. 158.)]

Annexed:—

(*a.*) 19 Nov. Petition of Francis Duffield, the Respondent, for further time to answer. L. J., XV. 117.

(*b.*) 25 Nov. Answer of Francis Duffeild, Esq. Knightley left the legacies to his daughters, considering the contingent provision made for them by the marriage settlement was not

likely to benefit them. Andrew regularly paid interest to Sarah for her 700*l.*, according to the will, and quietly enjoyed the estate, after Knightley's death, till his own death in 1668. He devised to Sarah and Mary several houses in London worth 200*l.* a year, as well as 300*l.* a year in New River shares, and the residue of his personal estate, worth 7,000*l.* and upwards. Appellants, before their ejectment, brought a Bill in Chancery for their portions, which was dismissed. The Court of Chancery declared that Appellants' demands were satisfied in equity by the devises in the wills, which were more than double the provision originally intended in the settlement, and that Andrew's plain intention was to leave his real estate for life to Respondent, his heir male, free of any charge beyond Sarah's legacy, the whole estate being but 400*l.* a year, half of which would have come to him under an old settlement. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Wm. Whitelocke. *Endorsed* as brought in this day.

593. Nov. 15. Parker *v.* Thornhill.—Petition of Philadelphia, George, Robert, Thomas and William Parker, children of Dame Sarah Parker, widow, daughter of George Chute, Esq., deceased. Refers to their Lordships' judgment of 2 Dec. 1691 and Order of 22 Feb. 1691–2. Pursuant to the last Order, Baron Powell has presented to their Lordships an Issue drawn by himself and Justice Powell, which is accordingly ordered to be tried. This issue, which is only whether George Chute the younger was seized for life or in tail of the premises in question at the time of suffering the common recovery, is not sufficient to determine the matters in question; for even if he were shown to be tenant in tail, the common recovery would not bar the remainder in fee vested in George Chute the elder and by him devised to Petitioners, Katherine Chute, the widow, having an estate for life in the premises precedent to the estate tail. Pray that the Issue may be referred back to the said Judges for amendment before trial thereof. *Signed* by Sarah Parker and P. Parker. L. J., XV. 112. [The original Petition of Appeal,* complaining of a Decree in Chancery of 3 Feb. 1690–1, was presented on 6 Nov. 1691. (L. J., XIV. 635). The Cause was first heard, on that Appeal, on 30 Nov. 1691. *Sir Thomas Powys* (for Appellants) opened the Case. The thing will turn upon a point in law, which the Chancery should have directed, whether by the words of the will he is tenant in tail or not. The intent of the Will must guide us. *Mr. Ward* (for Appellants): We conceive the Chancery has erred. *Sir William Williams* (for Respondents): This is an estate tail. The words are plain, and there can be no implication on the words thereof. 13 Hen. VII. *Mr. Finch* (for Respondents): It is an estate tail, and can be interpreted no other wise. *Sir William Williams* heard in reply. *Mr. Trevor* heard as to the portions. Counsel withdrew, and the Speaker reported. *The Judges* asked whether the words of the Will make an estate tail. *Holt, C. J.*, reads the words of the Will. It is an estate tail, in the son George. *Atkyns, C. B.*: I am not of the same opinion with the L. C. Justice. I take it was only to enable him to make a jointure to another wife. *Gregory, J.*: As the Will is penned, it makes an estate tail. *Gregory, B.*: I think it is an estate tail. *Eyre, J.*: It is a devise to a tenant in tail. *Powell, B.*: It is an estate tail by implication, otherwise there might have been a male Defendant. *Holt, C. J.*,

* Not among the Records. *See* Annex (*e*).

HOUSE OF LORDS MSS. 1692.

heard again: It is an estate tail to the first wife, but whether it is so after seems (*sic*). *Moved* that the Judges give their opinions in this case another day. *Ordered* as in L. J., XIV. 665. (MS. Min.)—On 2 Dec. the Judges were heard on the question whether by the words of the Will, Mr. Chute was tenant in tail? *Atkyns, C. B.:* I am of opinion that the testator intended his son should have an estate tail, and so his recovery is a good recovery. *Holt, C. J.:* I have not had time, but I should be glad to hear Counsel on this point. *Ordered* that it be referred to a trial at law, after which either side may resort to this House (MS. Min.; L. J., XIV. 668). On 17 Feb. 1691–2, on a Petition* of the Respondents, stating that the matter was not triable on ejectment, the House referred it to Justice Powell and Baron Powell to draw an Issue for the trial (L. J., XV. 80). The Issue was presented by Baron Powell and agreed to by the House on 22 Feb. (*ib.* 87), and on 15 Nov. on the above Petition of the Appellants, it was referred back to the same Judges to amend it (*ib.* 112). On 26 Jan. 1692–3, a Petition† of the Appellants was dismissed (*ib.* 202). Nothing further happened till 27 Nov. 1694, when the Appellants were ordered to answer a Petition* of the Respondents, presented that day, praying that the Issue might be enlarged, a Special Verdict having been found, the Court of King's Bench conceiving the Issue not sufficient to try the matter in question (*ib.* 436.) The Appeal was ultimately withdrawn 18 March 1695–6 (*ib.* 709.).]

Annexed:—

(*a.*) 26 Jan. 1692–3. Petition of Philadelphia, Sir George, Robert, Thomas and William Parker, children of Dame Sarah Parker, daughter of George Chute the elder, Esq., deceased, being infants by the said Dame Sarah Parker, their guardian. The tenants of the estate late of George Chute the elder have, since the death of George Chute the younger in 1689, refused to pay their rents. Petitioners have pleaded to the trial at law directed by their Lordships, but the cause is not yet tried. Pray that the tenants may be ordered to pay all growing rents and arrears. [Read this day and dismissed. L. J., XV. 202.]

(*b.*) 4 Dec. 1694. Petition of Appellants for a week's further time to answer Respondents' Petition of 27 Nov. last. L. J., XV. 438.

(*c.*) 18 March 1695–6. Petition of Sir George Parker, Bart., Philadelphia, Robert, Thomas and William Parker. The issue directed by their Lordships has been tried, and a Special Verdict found thereon, but the cause still remains undetermined, and, to avoid further expense, the parties have come to an agreement. Pray for leave to withdraw Appeal. L. J., XV. 709.

(*d.*) 18 March 1695–6. Order of the Court of Chancery, of 9 March, after hearing Mr. Dobyns for Plaintiffs [Respondents] and Mr. Vernon for Defendants [Appellants], reciting the terms of the agreement, and ordering that the said agreement be performed and that the Appellants, pursuant thereto, should withdraw their Appeal. *Signed* Edw. Goldesbrough.

(*e.*) 31 March 1695–6. Acknowledgment of receipt this day from Mr. Walker of the Petition of Appeal of Dame Sarah Parker against a Decree in Chancery obtained by Jeremiah Thornhill and others, and the Answer thereto and several other Petitions and Papers. *Signed* Geo. Townesend.

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* Not among the Records. *See* Annex (*e*).
† Annex (*a*).

594. Nov. 17. Butter and Cheese (Searching and Weighing) Bill.—Amended Draft of an Act for preventing abuses committed by the Searchers and Weighers of Butter and Cheese. Identical, as amended, with Sections i., ii., iii., iv., v. and vi. of the Act of 1692 (4 W. & M., c. 7., Fol. Ed.), except in the passages given in the second column below :—

Draft as amended.*	Act of 1692. (Fol. Ed.)
Clause 1.	Sect. i.
Forasmuch as [the County of Suffolk and some part of the County of Norfolk] *divers counties of this Kingdom* consist chiefly of dairy farms and are [chiefly] *in great measure* supported . . .	
. . . and the goodness of the butter secured . . .	Line 5. . . . and the goodness of the butter is secured . . .
. . . in [all] the sea-port towns in the said [County of Suffolk] *counties* . . .	Line 6. . . . in all or most of the sea-port towns in the said counties . . .
. . . approved by the said factors . . .	Line 8. . . . approved by the factors . . .
. . . said counties [of Norfolk and Suffolk], contrary . . .	
. . . exposes the same to sale *by searching and weighing the same, if he think fit,* the Seller shall not after be charged . . .	Line 19. . . . exposes the same to sale by searching or † weighing the same, if he think fit, the Seller shall not after be charged . . .
Clause 2.	Sect. ii.
. . . set his seal or mark upon the said butter, or name at length . . .	Line 3. . . . set his seal or mark upon the said butter, or the cask in which it is, or his name at length . . .
. . . fraud committed by the seller . . .	Line 6. . . . fraud be committed by the seller . . .
. . . or Justices *of the Peace,* by one or more witness . . .	
. . . forfeit the sum of *thirty shillings* for every such firkin . . .	Line 9. . . . forfeit the sum of twenty shillings for every such firkin . . .
Clause 3.	Sect. iii.
And to the end the trade for butter and cheese [into those counties] may not be engrossed . . .	
. . . port or place in [the said counties of Suffolk or Norfolk] *this Kingdom,* shall receive . . .	
. . . or other person dealing in the said commodities . . .	Line 6. . . . or other person making the said commodities . . .
. . . until the same can be shipped . . .	Line 6. . . . until the same shall ‡ be shipped . . .

* The omissions are shown by square brackets, and the additions by italics. Where the amendments are adopted in the Act, the latter is not quoted in the second column.

† So in Folio Edition. The original Act reads ("and"), as on the Draft.

‡ So in Folio Edition. The original Act reads ("can"), as on the Draft.

HOUSE OF LORDS MSS.

1692.

Draft as amended—*continued.*	Act of 1692—*continued.*
. . . on the next ship, hoy or vessel that shall come to such port or place to lade butter and cheese, (except the owners of the said goods shall give orders to the contrary) and shall . . .	Line 8. . . . on the next ship, or hoy or vessel that shall come to such port or place to lade butter and cheese for London, (except the owners of the said goods shall give order to the contrary) and shall . . .
. . . the sum of *two shillings, six-pence* and no more; And if . . .	Line 11. . . . the sum of two shillings and six pence for every load and no more, and so proportionably; And if . . .
. . . for every firkin of butter *five shillings*, and for every weigh of cheese *ten shillings* . . .	Line 14. . . . for every firkin of butter ten shillings, and for every weigh of cheese five shillings . . .
Clause 4.*	Sect. iv.
. . . shall from and after the [first] *five and twentieth* day of [February] *March* next, keep a book . . .	Line 3. . . . shall from and after the first day of April, one thousand, six hundred, ninety and three, keep a book . . .
. . . or put on board, *and to whom the same are consigned*, which book . . .	
. . . or shall refuse *in the daytime* to produce such book . . .	
. . . shall forfeit *for every firkin of butter five shillings, and for every weigh of cheese ten shillings, and* for every *other the aforesaid* offence the sum of *five pounds*, . . .	Line 14. . . . shall forfeit for every firkin of butter two shillings and six pence, and for every weigh of cheese two shillings and six pence, and for every other the aforesaid offence the sum of two shillings and six pence, . . .
Clause [4] 5.	Sect. v.
. . . or shipper of butter and cheese, that then . . .	Line 4. . . . or shipper of butter and cheese, before the same be sufficiently laden, that then . . .
. . . so refused *five shillings*, and for every weigh of cheese *ten shillings* . . .	Line 6. . . . so refused five shillings, and for every weigh of cheese so refused two shillings and six pence . . .
Clause [5] 6.	Sect. vi.
. . . for the Justice or Justices . . .	Line 18. . . . for the Justice and† Justices . . .

[Read 1ª this day. (L. J., XV. 114). In Select Committee on 22 Nov., L. Cornwallis in the Chair, *Mr. Stiner* desired that the Cheesemongers of London might be heard. *Ordered* that they be heard, as well as all others concerned.—On 24 Nov., the parties being called in, *Mr. Sergeant Thompson* opened the Bill. He says the Cheesemongers have appointed officers contrary to law. *The Cheesemongers* say their Counsel could not attend now, and desire an afternoon; if not, that they may be heard by themselves now. They withdraw, and are recalled. *Ordered* that all parties be heard by their Counsel on the 29th.—On 29 Nov., the parties being called in, *Sir Thomas Powys* (for the Cheesemongers) says the Bill repeals the principal part of the Act 14 Car. II., though not in express words. There is no damage to the butter by unhooping the vessels. By this searching there is no doubt abroad of the goodness of the commodity. If the searching be only at

* The contents of this Clause, which is marked for insertion here, are taken from a Paper appended to the Draft.

† So in Folio Edition. The original Act reads ("or"), as in the Draft.

the sellers' houses, there can be no hurt to the farmer. The Cheesemongers have not power to shift the butter out of the firkin they buy it in. *Mr. Blackerby* (for the Bill): It is only 22 of the Cheesemongers who have engrossed the whole commodity, who oppose the Bill. They keep the butter often a month before they search. The Searchers are not sworn. I have heard they are broken tradesmen. They have raised 600*l.* a year by informations and indictments in Suffolk. We do not oppose a search at the seller's house. These Cheesemongers will suffer none but whom they please to trade into Suffolk. *Mr. Domvile* says that he and 13 others are prohibited trade there by the Thames Street Cheesemongers. *Mr. Ward* (for the Cheesemongers): This Bill repeals the Statute 14 Car. II. and gives leave to put on board on any private vessel. 14 Car. II. answers all the ends of well packing, whereas this Bill will countenance frauds and leave them unpunished. That Statute provides both for the quantity and quality, and has adapted punishments for persons that shall offend. The buyer cannot possibly last nor weigh the butter, for the farmer will not have it bored. The farmer is an eye-witness of the search of the butter at the waterside. *Mr. Blackerby:* The Weighers are no legal officers. This Bill only regulates the abuses they commit under colour of the Act. We are content that they should be weighed and searched at our own houses, as much as they please. These men will let none into trade with them but whom they please. *Mr. Ward:* It is impossible to discover at the buying. It will spoil the butter to see it upon the place. We cannot carry our axes and tools with us to the farmers' houses. The cask is often over-weight. *Mr. Blackerby:* The factor commonly strips the butter when he buys it. The Indicter pays no costs; the person is liable to pay double costs. Let the buyer be liable to pay the costs and the trade be open, and we agree. He offers a Clause to be added to the Bill, which is read.* *Ordered* that both sides attend on 3 Dec., in the Prince's Lodgings, and in the meantime swear such witnesses at the Bar as they shall then produce; and that the Cheesemongers have a copy of the Clause now offered. (Com. Book.)

3 Dec.† The Parties are called in. *Richard Savill* (sworn) (for the Cheesemongers in Thames Street) says he has been a factor in Suffolk. He has bought 80 firkins of butter and not viewed 6 at the buying them. The search is made at the time of the delivery in the presence of the seller. There are few sealed weights; they weigh with stones. They generally deliver at the water-side. They promise to make good what is bad; it often fails in goodness and weight. They have told me they had rather search at the warehouse than at home. He is now a Cheesemonger, and trades for butter into Suffolk. He cannot tell whether he can at home discover all defects; he believes he might, if he had his warehouse-keeper. *William Smith* (sworn): Has often bought butter in Suffolk, 400 firkins in a season. Some would suffer me to search, others would not. It has sometimes been good at top, bottom and sides, and grease in the middle. If we bore it through, the air will get in and damage it. In some great dairies there are sealed weights and iron beams; in most places there are wooden beams and stone weights. If we try it exactly at their houses, we must carry weights and beams. Some firkins have been made up so artificially that he could not discover it till he cut it up. He was not obliged to

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* *See* Clause 4 in text of Bill above, corresponding with Sect. iv. of the Act of 1692.

† The MS. Min. of this day have the following entry: "E. Scarborough [and] E. Thanet [? added to Committee on the] Butter and Cheese [Bill]."

buy if he did not like it. *Thomas Browne* (sworn): He used to buy at random and weigh afterwards. He trades sometimes for himself. *William Bath* (sworn): The Cooper strips the butter at the warehouse, and runs a knife into it. The seller brings it thither; there is often bad butter in it. He knows not that it damages the butter. He is a hoy-man. He never refused butter from any. He is at liberty to carry any man's goods. There are more vessels that do not carry butter than that do. He was never threatened by the Thames-Street men that if his son carried for any besides them, he should be turned out. He was not threatened, but White said if his son carried for anyone, it would be a means to have him turned out. *Nicholas Bowell* (sworn): He sold some pots to a gentleman, and one of them was more than dry salt. This was out of Staffordshire. *Thomas Briggs* (sworn): There are plenty of vessels for anyone. He has brought several loads of butter 12 years since for other persons. He never refused to bring up butter and cheese. He has offered his vessel to Mr. Forster. He is now freighted by the Thames-Street men. The country cannot want a vessel, if they will freight them. *William Betts* (sworn) (for the Bill): At one Sessions about 1674, there were about 200 informations against the farmers. They submitted rather than try, for they could compound for a mark apiece, and it would cost them much more if they had tried it. *Edmund Bohun* (sworn): Butter will naturally decay and lose its colour. They found no fault at their houses, but three months afterwards they would come for deductions. He always desired them to try it at his house, but they never would. The charge of a trial and bringing back the butter was so much greater than the abatement, that they chose rather to pay than try. All farmers have weights. They never stood for 2 lb. or 3 lb. of butter, if their weights were not sealed.—The House being set, the Lords are called in. (Com. Book.)

5 Dec. The parties are called in. *Edward Domvile* (sworn) (for the Bill): He went to Daniel Herne, the warehouse-keeper at Woodbridge, to ship his goods. He told him he durst not, though he lost more than 5*l.* a year by not doing it, besides, the Thames-Street Cheesemongers would turn him out if he did. Treasurer Hayes, at a meeting of the Cheesemongers, told him he should not deal in Suffolk. (He produces letters from his factors concerning the not lading his goods.) There are about 250 cheesemongers in London, about 22 Thames-Street men that deal to Suffolk. He was left out a year sooner, but Alderman Radford got him in again. *Benjamin Grevill* (sworn) says (*sic*). The House being set, they withdraw. *The Cheesemongers* desire to be heard by witnesses. *Ordered* accordingly, and that the witnesses be sworn. (Com. Book.)

7 Dec. The parties are called in. *Edward Domvile* (sworn) (for the Bill): In December last he desired Dan Herne, warehouse-keeper at Woodbridge, [but he] refused to take in his goods. *Benjamin Grevill* (sworn): The warehouse-keeper at Ipswich refused to ship his goods. *John Hampton* (sworn): His factor John Davy told him the Thames-Street men would not suffer him to deal in Suffolk. He acts for two or three Thames-Street men. *Richard Steele* (sworn): His master John Barnard has been hindered from shipping his goods in the common hoys, and he has been debarred of his market because he was forced to send his goods to Harwich. The hoymen have told him the wholesale men would not let them take in the goods. It has cost his master much money, because he is forced to send his goods about. *Samuel Palmer* (sworn): He has been hindered at Chester by these men in the shipping his cheese. He has been refused by the common hoys; they take them up to themselves.

Mr. Hayes (against the Bill): They will resign all the ships that they are not properly owners of, which they have now contracted with. He hopes they may hire and employ what vessels they please. *John Ewer* (sworn): There are 20 hoys at Aldborough that they may hire, which ply to London. At Ipswich there may every week be had a dozen. *William Barton* (sworn): There are plenty of ships and warehouses in Suffolk to be had. He went thither a stranger, and met with both. *Thomas Almond* (sworn): There are more vessels in Woodbridge unemployed than that are employed. There are several warehouses to be had there. There are about 9 or 10 hoys that go constantly to London, besides ketches, &c. He never refused to carry butter. He is hired by the Thames-Street Cheesemongers. Being asked, he would not say that if he was not full loaded by the Thames-Street men, that he durst take in any other man's butter and cheese.

8 Dec. The Bill read by paragraphs. Amendments made.* Bill ordered to be reported as amended.

The Bill was reported on 9 Dec., when the amendments were agreed to. (L. J., XV. 140.) In the Commons on 15 Dec., it was laid aside after a first reading and a debate "touching the second reading" (C. J., X. 744), and a new Bill was brought in, in its place, by Sir Samuel Bernardiston on the 17th (*ib.* 746), who, with others, brought it up to the Lords on 13th Feb. 1692–3. (L. J., XV. 227.)]

595. Nov. 17. Nussey *v.* Sheppard.—Petition and Appeal of Gilbert Nussey, Gent. Edward Clenche and Elizabeth his wife (since deceased) mortgaged in 1668 to Edward Sheppard, as security for 600*l.*, the inheritance, expectant on the death of Elizabeth Smith, relict of Samuel Aldgate, of the manor lands and advowson of the Church of Northam and certain lands in Bramford, Suffolk. In 1677 the mortgagee by will devised the mortgaged premises and reversions to his wife, his executrix, during her life, and, after her death, to his nephew William Sheppard, and gave to his nephew Thomas Sheppard his lands in Bramford after the estate for life limited in his will. Testator died in 1680, and his widow claiming, as residuary legatee, 40*l.* interest on the mortgage, Clenche, as security, mortgaged the equity of redemption to Benjamin Nussey, in trust for her. Appellant, having all the interest in the premises willed to him by the widow, proved her will as her executor, and in 1690 purchased in the absolute release of the equity of redemption for 150*l.* from William and Mary Clenche, the mortgagor's executors and devisees. Elizabeth Smith, the tenant for life, is still living. Sheppard's two nephews claiming the premises when they should fall in possession or some part of the money lent thereon, Appellant brought his Bill in Chancery against them and Elizabeth Smith, William and Mary Clenche and Laurence Nussey, praying the direction of the Court on the construction of Edward Sheppard's will as to the money lent on the mortgage, and for possession after the death of the tenant for life. The two nephews brought a Cross Bill to compel Appellant to pay the money or be foreclosed of the equity of redemption. The Lords Commissioners, on hearing both causes, on 22 June 1692, refused to relieve Appellant, but gave him time to consider whether he would redeem on payment of principal, interest and costs. Appeals from this Decretal Order, and prays that the mortgage money may be decreed to him and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by Wm. Whitelocke and Tho. Filmer. All the signatures are copied. L. J., XV. 113. [The Cause was heard

* *See* text of Bill where quoted in first column above.

HOUSE OF LORDS MSS.

1692.

on 21 Dec. *Mr. Finch* (for Appellant): He treats for the Estate and for that there is an absolute conveyance, and she dies and makes an executor and conveys to us. When the Appellant and Respondents come to treat, then they differ about their shares. (They read the words of the Will: "I give and devise unto the said Elizabeth," &c.) *Sir Thomas Powys* (for Appellant): They will hardly be able to maintain this Decree as it now stands. It is we who are entitled, as we are the executor of this woman, and [to] all the interest. Here is a dry reversion; no profit until the tenant for life is dead. If she has it not as devisee, she must have it as executrix. *The Solicitor-General* (for Respondents): This mortgage was made in 1668. It is a mortgage of a reversion. No interest was paid, and Clenche makes his Will and devises his land as they have read. He dies in 1680, and in 1682 she comes as executrix, and here is an account stated for 600*l.* We admitted to a redemption, paying the principal money, interest and costs. They were not willing to do this, and did not redeem, and so the Bill stood dismissed. If we had not submitted to this redemption, then the Court was absolutely of opinion they ought not to redeem. The question is, whether the Court did well to let them in to redeem. We are entitled to part of the interest and principal. *Mr. Poley* (for Respondent): There was no further sum advanced. She had no estate vested in her. If the devise carries anything, it carries all. *Mr. Finch* and *Sir Thos. Powys* heard in reply. Counsel withdrew, and Speaker reported. *Judges* heard as to what is usual in cases of equity upon redemption of mortgages. *Lechmere, B.*, heard to the case. *Turton, B.:* If all be given away, nothing can come to the executrix. *Powell, B.:* The general word will carry that to her. The Decree was then reversed, with directions as in L. J., XV. 159. (MS. Min.)]

Annexed:—

(*a.*) 1 Dec. Answer of William Sheppard and Thomas Sheppard. Respondents' uncle left by his will the manor and a moiety of the advowson of the Church of Northam after his wife's death to Respondent William, and the lands in Bramford, being the rest of the mortgaged premises, to Thomas, after the estate for life limited should be determined. Testator's widow dying during the lifetime of Elizabeth Smith, no interest in the mortgage vested in or was intended by testator for his widow, but it went to Respondents, his nearest relations. Elizabeth Sheppard had no title, as her husband's executrix, to the interest money on the mortgage, and if she took any other security therefor from Clenche, it was only colourable and with intent to defraud Respondents. Respondents offered to let Appellant redeem, though the mortgaged premises were not strictly redeemable. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Tho. Trevor and Hen. Poley. All the signatures are copied. *Endorsed* as brought in this day.

(*b.*) 7 Dec. Petition of Appellant for a day for hearing. L. J., XV. 136.

596. Nov. 17. E. Exeter and E. Devonshire *v.* Clerke.—Petition and Appeal of John, Earl of Exeter, and William, Earl of Devonshire. Petitioner, the E. Exeter, as surviving executor of William, late E. Devon, in trust to pay his debts and legacies, and other sums, became liable by his testator's covenant, on the death of Lady Holderness without issue in Feb. 1689, to pay 6,000*l.* to Sir John Nicholas, Kt., on his assigning of a term of 2,000 years in the manor of Stavely, co. Derby, vested in him as a trustee for securing

thereof. The sum being claimed under one title by Elizabeth Clerke, spinster; under a second title by Dame Joyce Turner and Isabella Clerke, widows; and under a third title by Francis Skinner and others, the creditors of Philip Warwick, Esq., Petitioner, the E. Exeter, was forced to apply to Chancery for directions, and accordingly, with the E. Devon, brought his Bill against Elizabeth Clerke, Dame Joyce Turner, Isabella Clerke, Matthew Johnson and John Tench, and also Sir John Nicholas for directions and indemnity, and to compel Sir John Nicholas, on payment of the money, to assign the said term, Sir John, who had the legal right to the money, refusing to receive it or assign the term without the direction of the Court. The other persons, who claimed the money, not agreeing among themselves to whom it should be paid, brought several Bills against Petitioners on distinct titles, created by Sir Philip Warwick and his son Philip, who had the original title to the money. The Court, on hearing all the causes together on 13 May 1692, decreed Petitioner, the E. Exeter, to pay the 6,000*l.* with interest to Master Keck to the use of the creditors and the residue to Elizabeth Clerke, and on 23 August 1692 ordered that unless Petitioners paid the same within three weeks, they should pay interest till the principal was paid. Thus the E. Exeter has to pay above 700*l.* interest since bringing his Bill, although he was ready to pay the principal when first due, and was only prevented from so doing by having to receive the directions of the Court as to whom to pay it. Appeals against the Decree and Order as to the payment of interest. Prays that Elizabeth Clerke and the others first named may be ordered to answer. *Signed* by Appellants; *Countersigned* by Tho. Trevor, Wm. Dobyns, and Rich. Holford. L. J., XV. 114. [The Cause was heard on 12 Dec. *The Attorney-General* and *Solicitor-General* were heard for Appellants. *Sir William Williams* heard for Respondents. *Mr. Finch* (for Respondents): There was no tender to discharge the growing interest. *Counsel* for Appellants heard in reply. Counsel withdrew, and Speaker reported. *Judges* heard as to where by law the money is to be tendered and paid? If a time and place appointed, then at the time and place. If otherwise, he is to seek where the party is, that is to take it. If the Appellants had proved they offered the money to Sir John Nicholas, it had been something, but this is another case. *Lechmere, B.:* Sir John Nicholas was to be paid the money, if the money was brought to a place and tendered. *Rokeby, J.:* There is no tender without actually producing the money. *Ordered*, that the Decree be affirmed. (L. J., XV. 144; MS. Min.)]

Annexed:—

(*a.*) 24 Nov. Answer of Elizabeth Clerke, Spinster. Respondent claims as Executrix of Philip Warwick, whose creditors only claim as much of the money as will satisfy their debts. The Appellants' Bill was as well to discover and clear an incumbrance of 1,800*l.*, on a judgment acknowledged by the late L. Frescheville, as about the payment of the money. The deed of security ought to guide the payment of interest. Prays that the Appeal may be dismissed. *Signed* by Respondent; *Countersigned* by Ja. Master. *Endorsed* as brought in this day. *See also* MS. Min.

(*b.*) 25 Nov. Answer of Francis Skinner, John Waterworth, Sir Robert Atkyns, Adam Waringe, Nicholas Knolles, Edward Miller, Sarah Barebone, Thomas Jones, Charles Brexton and Mary his wife, William Webb and Anne his wife, John Jeffes and Mary his wife, the Earl of Holderness, Barbara Lyster and others, Creditors of Philip Warwick, Esq., deceased. Respon-

HOUSE OF LORDS MSS.

1692.

dents are creditors for between 4,000*l.* and 5,000*l.* of the late Sir Philip Warwick, whose sisters and co-heirs, Dame Joyce Turner and Isabella Clerke, claim, like Elizabeth Clerke, by virtue of devises in his will. Respondents have procured two Reports of the Master for their debts, and are not concerned in the question of interest, the principal sufficing to meet their claims. Pray for leave to proceed in Chancery to recover their debts, and to be dismissed with costs. *Signed* by Skinner, Waterworth, Waringe, Barebone and Jeffes; *Countersigned* by Robert Dormer. *Endorsed* as brought in this day.

597. Nov. 17. Sir C. Wood, *alias* Cranmer, *v.* D. Southampton.—Petition and Appeal of Sir Cæsar Wood, *alias* Cranmer. Appellant's uncle, Sir Henry Wood, in 1671, in consideration of an intended marriage between his only child, Mary, and the Respondent, then E. Southampton, aged then respectively 7 and 11, and of a declaration by the King that he would settle 2,000*l.* a year in land on Respondent for life, and afterwards to Mary for life as a jointure, with remainder to their sons, conveyed his estate, worth 4,000*l.* a year, to E. St. Albans and others, in trust to provide a maintenance for Mary till the age of 17 or marriage, the residue to go after the marriage to Respondent, he giving security to provide for any daughters. If, after Sir Henry's death, Mary should die or marry another before 17, Respondent then unmarried, or should after 16, being unmarried, refuse to marry him, then the trustees were to pay him 20,000*l.*; but if the marriage should take effect after her age of 16, then the estate to be in trust for her and Respondent, or the longer liver, and their issue, failing which, to such persons as Sir Henry should appoint by will. Sir Henry, by his will, confirming the settlement, devised the estate, in case the marriage should not take effect, or there should be no sons, or the sons should die without male issue, to Mary for life, remainder to Dr. Thomas Wood, testator's brother and late Bishop of Coventry and Lichfield, and his issue in tail, failing which to his sister Lady Chester for life, remainder to Appellant and his heirs male (on condition of their changing their names to Wood), with other remainders over. Shortly after Sir Henry's death, Respondent's mother, the Duchess of Cleveland, took Mary away from her guardian, Lady Chester, and married her to Respondent, but both being then under the age of consent, they were remarried after Mary was 12, each time without Lady Chester's consent. Mary died in 1680, leaving no issue, and Dr. Wood claimed and possessed the estate. Respondent, who has received more than 20,000*l.* out of the personal estate and the profits of the real estate which accrued before his wife's death, although the 2,000*l.* a year was never settled by the King according to the marriage agreement, nor has Respondent performed any of the conditions, acquiesced in Dr. Wood's possession till 1689, when he brought a Bill in Chancery against him and Appellant. Dr. Wood dying pending the suit, and Lady Chester being also dead, Appellant took possession and brought his Bill against Respondent; but the Lords Commissioners, on hearing both causes in Oct. 1692, dismissed Appellant's Bill and ordered him to account for the profits received since Mary's death, and that the tenants should attorn to Respondent, thus making Appellant only a trustee to Respondent for life, contrary to the true construction of the settlement and will, which intended no life estate for Respondent, but on a precedent condition which has not been performed. Prays that the Decree may be reversed. *Signed* by Appellant; *Countersigned* by Wi. Williams, J. Somers, Fr. Pemberton, W. Thomson, Jo. Conyers,

T. Powys, W. Dobyns and Martin Folkes. L. J., XV. 113. [The Cause was heard on 5 Dec. 1692. Counsel being called in, and no Counsel appearing for Respondent, Counsel for Appellant withdrew, and after debate, Respondent's Solicitor was called in, and said he gave notice to Sir Thos. Trevor and Mr. Vernon. *Ordered* that Respondents' Counsel be reprimanded by the Speaker, which was accordingly done when they came in. *Attorney General* (for Appellant): This is a case of great consequence, where the Chancery have taken great liberty beyond the usual bounds. The marriage was to take effect after Mary's age of 16. This was done when she was but 7 years old. If Mary refused to marry the Earl, then the Earl was to have 20,000*l.* out of the estate. The Earl was to make a suitable settlement. Sir Henry had no issue male. This treaty was in 1671. The Deed of Settlement recited by the Attorney. Sir Henry Wood had power to appoint trusts, and at the same time the Will of Sir Henry was made, and the Will was to provide for the issue, and in his Will he recites the settlement. The limitations are by the Will. Sir Henry dies when his daughter is 7 years old. She was to marry at 17, and at her discretion to choose, at the penalty of 20,000*l.* She died without issue male. The words of the deed are plainly with us, and we think the intent of the deed is with us. The words say: when the marriage takes effect and there is issue male. There were several accidents that might happen; but every case was provided for. In case of issue male, then the bulk of his estate was to go there for the sake of his name and blood. This is the interest that is to come by the woman having a son. There is nothing of an estate nor omission in the settlement to prove his intention. But if it were not so, the question is, what the provision was. The Will and Deed are made together and are but one conveyance. The Will only goes to the issue upon the marriage. The Will agrees with the deed. It is by express word in the Will, that neither the Duke nor Duchess was to have an estate except there were issue male. It is objected that this is a strange and unreasonable settlement. By the Will it cannot rise till after the death of the mother. Nothing can take effect till after issue male. *Mr. Finch* (for Appellant): It is one entire condition, made up of several parts. What are the parts that make up this condition precedent? The condition must be performed. This is not the same question as was in relation to the personal estate. This is the [?] time of marriage mentioned. We think there must be a marriage, and after 16 and issue male, before the estate goes. Upon what consideration could the Court divide this? There is no other method in Courts of Equity than the rules of law. If, when settlements are made, the law be not the rule, then there is no security. They will break this precedent condition, and this they would make part for one and part for the other. Where an estate is limited in trust, that which is not limited goes to the heir. Sir Henry's Will does not give to the daughters of that marriage. Is there any proof that Sir Henry did not intend this? Why must we suppose this? They say there is an absurdity. There is none. The law provides in all the cases. *Solicitor General* (for Respondent): I do not doubt but we shall give full satisfaction for this decree. Recites the deed of May, 1671. The end of this settlement was that Sir Henry's daughter should marry this Lord. This is plain by the deed. I come to the Clause they stand on: if the marriage shall take effect at the age of 16. This is annexed to the penalty of 20,000*l.* This cannot be sense without this construction. The Duchess's estate is void, as they say. The Duchess by the words cannot take except the Duke does. Sir Cæsar claims by the Will and the power in it. This is one entire dis-

HOUSE OF LORDS MSS.

1692.

position of the estate, the deed and the Will. The Duke is yet living, so till after the Duke's death, Sir Cæsar cannot come in. These are such uncertainties, that no man can make such obstructions as they would have. This is but a description of the settlement to come after. Is there anything in the Deed or Will that limits this any other way? *Mr. Vernon* (for Respondent): They agree it is a case in Equity. It was upon trust. Here is no estate executed at law. The intention of the parties is to govern this. This intent is declared in the deed, that if the marriage take effect, &c. Now it has taken effect, and yet he shall have nothing at all, if they are not to have an estate. The deed only shows what manner it should go in, and so Respondent is entitled to the most favourable construction. Appellant's Counsel having replied, the Speaker reported, and the Decree was ordered to be reversed. L. J., XV. 134; MS. Min. *See* Shower's Cases in Parliament, p. 83.]

Annexed:—

(*a.*) 26 Nov. Answer of the Right Hon. Charles, Duke of Southampton. Sir Henry Wood, desiring to marry his daughter to Respondent, addressed Charles II. for his consent, saying, "As I got my estate under your Majesty and the Queen, your mother, I do desire and think it just to dispose it according to your Majesty's pleasure, which I am ready to do when your Majesty pleases, and I am sorry it is no more for this young Lord's sake" (meaning Respondent, who then stood by him), and the King accordingly consented to the marriage. The trustees under the settlement were E. St. Albans, L. Arlington, Sir Thos. Clifford, Dame Mary Chester, Dr. Thomas Wood (afterwards Bishop of Coventry and Lichfield), Appellant and John Gardiner, Esq. Sir Henry Wood's intention was that Respondent should have an estate for life if he married Mary. The latter was brought to Respondent's mother by Sir Henry's directions. The second marriage took place on 29 June, 1676, before Dr. Fell, Bishop of Oxford, Respondent being then above 14 and Mary above 12, and they lived together till Mary's death, between the ages of 16 and 17, when Dr. Wood and Lady Chester, who had been appointed her executors in trust till her age of 21 or marriage (after which Mary was to be sole executrix) possessed all Sir Henry's personal estate, amounting to 27,000*l.*, and Appellant, as one of the trustees, received most of the profits of the real estate from the death of Sir Henry to that of Mary. The executors and Appellant refusing to give account, Respondent in 1683 brought his Bill in Chancery, and obtained a Decree which was affirmed on Appeal in 1689 by the House.* Appellant has not paid Respondent a penny, and pretends that Lady Chester left no assets. Respondent, after great expense, received of Dr. Wood and Sir Stephen Fox about 7,000*l.* or 8,000*l.*, most of which went to Mary's creditors and the suit. Respondent, after the said Decree was affirmed, brought a Bill against Dr. Wood and Appellant, as the surviving trustees, to have the real estate for life; but as the former insisted on his privilege as a Bishop, he could not proceed till after his death last April, when he proceeded against Appellant. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Trevor, J. Ewer and Rich. Holford. *Endorsed* as brought in this day.

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* *See* Calendar, 12th Report, App. Part VI., No. **193.**

598. Nov. 17. Bellamy *v.* Allen.—Petition and Appeal of John Bellamy, Executor of William Bellamy, his father, deceased. Petitioner, owing 1,500*l.* to Daniel Lodge, a merchant at Amsterdam, on account of several Bills of Exchange, gave bonds with his father for the debt to James Briggs, a merchant in London, who with his partner Samuel Hodgkins, had paid the Bills for Lodge, on which bonds Briggs obtained judgments. Petitioner and his father, afterwards, having great losses in trade, compounded with their creditors, including Briggs, who acknowledged satisfaction on the judgments, but, unknown to Petitioner, compounded, through one Everson, with Lodge at 30*l.* per cent. for what Lodge owed him and Hodgkins. Briggs becoming bankrupt, his assignees, the Respondents, brought a Bill in Chancery against Petitioner and his father for the 1,500*l.*, who answered, stating that they had paid Briggs 375*l.*, under the composition, not knowing then that he was a bankrupt, and pleaded the release of the judgments. The Court set aside the composition and decreed the whole sum claimed. There was no proof that the composition with Briggs was by collusion or intended to defeat the other creditors. Prays that the Decree may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by Jam. Leman and Tho. Trevor. L. J., XV. 113. [The Cause was heard on 24 Jan. 1692–3. *The Solicitor-General* (for Appellant) opened the case. *Mr. Finch* (for Appellant): There was a release given, and a discharge of the security. The Decree is wrong. It is that they shall have the full sum on the bonds—principal and interest. There should have been no decree, and if any, then they should have given 30 per cent. *Sir William Whitelocke* (for Respondents): The Decree is justifiable. *Mr. Jennings* (for Respondents) is heard. *Counsel* for Appellant heard in reply. Counsel withdrew, and Speaker reported. *Ordered* that the Decree be affirmed. (L. J., XV. 197; MS. Min.)]

Annexed:—

(*a.*) 29 Nov. Petition of Respondents for ten days further time to answer. L. J., XV. 128.

(*b.*) 9 Dec. Answer of Respondents. Appellant and Briggs both failing to meet their debts, withdrew at different times to the Mint, where they consorted together. The bonds on which judgment was obtained had been delivered over to Respondents by Briggs long before his bankruptcy, as security for a debt of 3,000*l.*, and were held after his bankruptcy by Respondents as his assignees. Recite at length the proceedings below. Appellant, who owed Lodge 2,300*l.*, first accepted the Bills, but refused to pay them when due, and allowed them to be protested, and Briggs took them up for Lodge, being his correspondent. The 30*l.* per cent. composition made by Everson was no part of Appellant's debt, but was for other sums owed by Lodge to Briggs. The Decree of 25 Oct. 1692 was just. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Wm. Whitelocke. *Endorsed* as brought in this day.

(*c.*) 14 Dec. Petition of Respondents for an early day for hearing. L. J., XV. 148.

(*d.*) 2 Jan. 1692–3. Petition of Appellant that the hearing may be put off for a week, the order in Chancery not having yet been drawn up. L. J., XV. 170.

599. Nov. 17. Godwin *v.* Foscraft.—Petition and Appeal of Edmund Godwin and Mary, his wife, Roger Gill and Eleanor, his

HOUSE OF LORDS MSS.

1692.

wife, and Charles Horne. Respondent's father, William Foscraft, having authorised his wife Martha to provide for their daughters Mary Godwin, Eleanor Gill and Elizabeth, wife of Respondent Horne, on their marriage, Martha agreed to give them each 100*l.* as portion on marriage, 100*l.* more at her death, and 100*l.* more out of her husband's monies in Sir Robert Vyner's hands. The first 100*l.* was accordingly paid to them, but their brother, the Respondent, to defeat payment of the rest, obtained from his father a fraudulent assignment of his estate, declaring that he would provide for him and pay the remaining portions, and after his mother's death, brought a Bill in Chancery for the portions already paid. Appellants brought a Cross Bill to discover the writings empowering Martha to act for her husband, and to have the marriage agreements performed, and in June 1687 the Master of the Rolls ordered Appellants to account to Respondent for the father's personal estate in their hands over and above the first 100*l.* paid to each on marriage. The L. Chancellor Jeffreys, on a rehearing, allowed Appellants to proceed at law for their full portions, and they obtained verdicts for the 100*l.* payable at Martha's death; but in June 1692 the Court of Chancery decreed Appellant Godwin to pay 165*l.* to Respondent with interest and costs, which he had before paid and divided among the other Appellants, according to Martha's appointment, and vacated the recognizance entered into by Respondent to avoid execution on the judgments at law. Appeals from this Decree. *Signed* by Appellants; *Countersigned* by Wi. Williams and E. Jennings. L. J., XV. 113. [The Cause was heard on 15 Dec. *Sir William Williams* (for Appellants): He employed his wife in the marriage agreement, and he was to have 100*l.* at the death of the mother, and after, another 100*l.* and part of Sir Robert Vyner's debt. These were several agreements, but the terms were the same. They were made the first before the Statute. In 1685 the woman dies, and now what effect this deed will have in this cause is the case. The scrivener was to keep this deed as a trust, and this deed was got out of the hands of the scrivener. In 1682 Godwin borrows 200*l.* of the woman, and pays interest until 1685, and the Chancery has decreed my client to pay this money to the Respondent. We brought actions at law, and these came to trial in 1688, and the verdicts find these marriage agreements. Here is our money, judgment and execution taken from us. *Mr. Ward* (for Appellants): Nobody can say but we have proved our marriage agreement, and have verdicts for it, and that the husband consented. We have paid this money pursuant to our marriage agreement, and yet we are decreed to pay it again. *Sir Ambrose Phillipps:* The Chancery has an order [for] the payment of the 1,650*l.* *Mr. Finch* (for Respondent): To this deed, thus made, the witnesses are Godwin and Gill, the Appellants, and yet pretend a title to 100*l.* apiece more. In that deed there is no power for the wife to dispose of anything. They made it with the wife, and not with the husband. The Cause was heard at the Rolls and then in Chancery before L. Jeffreys, and reheard before the present Commissioners and affirmed. L. Jeffreys, say they, gave us leave to go to law, and there they have got a verdict. *Sir William Williams* heard in reply. Counsel withdrew, and the Speaker reported. *Ordered*, that the Decree be reversed. (L. J., XV. 148; MS. Min.)]

Annexed:—

(*a.*) 26 Nov. Answer of William Foscraft. Respondent was legally entitled to his father's personal estate under a deed poll of 25 Dec. 1685. Appellants having possessed themselves of part of the estate, and the Appellant Godwin owing it 225*l.* besides other sums, Respondent brought his Bill against them to discover

what had been paid them by his mother, and for leave to sue Godwin in Horne's name on the bond, in case he refused to pay the 225*l.* Recites the proceedings below as stated in Appeal. Prays that the Appeal may be dismissed with costs. *Unsigned* by Respondent; *Countersigned* by Ambrose Phillipps, whose signature is copied. *Endorsed* as brought in this day.

600. Nov. 18. Wake's Estate Act.—Amended draft of an Act to enable William Wake, Gent., and William Wake, Doctor in Divinity, to make leases for lives or years within the manor of Shapwicke, in the County of Dorset. The Lords' one amendment is purely clerical (Com. Book, 25 Nov.). No amendments in the Commons. [Read 1ª this day; Royal Assent, 20 Jan. 1692–3. (L.J., XV. 116, 193.) 4 W. & M. c. 10. in Long Calendar. In Committee *Mr. Folkes* said the marriage was treated by him. The marriage treaty was drawn by him, and if the making of leases had been mentioned, it had certainly been put in the settlement. It would be the interest of the family to take fines and set leases. Forty persons would be ruined if they had not this power of renewing leases. (Com. Book, 25 Nov.)]

601. Nov. 19. Court of Chancery (Review of Causes) Bill.—Draft of an Act for the better Reviewing of Causes in Chancery and other Courts of Equity. Whereas it is found by experience that rehearings and bills of review before the same persons or in the same Court where the first hearing was, have not been of sufficient efficacy for the relief of the subjects of this realm against erroneous and unjust decrees, such rehearings and bills of review for the most part tending only to the increase of charge and trouble to the suitors, Be it enacted by the King and Queen's most excellent Majesties, &c., That for the future there shall be no such rehearings or bills of review in the same Court that made or pronounced the decree supposed to be erroneous or unjust, but instead thereof, if any person or persons shall think themselves grieved by any order hereafter to be made upon arguing of any plea or demurrer, or by any decree or dismission in Chancery or other Court of Equity within England or Wales, such person and persons may, within (*blank*) months after such order, decree or dismission shall be entered with the Register of the Court where the same shall be pronounced, exhibit a Petition, signed by two counsellors or barristers-at-law, of at least ten years standing and practice at the bar, to the Justices of the Court of King's Bench and Common Pleas and Barons of the Exchequer of the degree of the Coif for the time being, if such order, decree or dismission be of any Court but the Exchequer, and if of the Exchequer, then to the Justices of the King's Bench and Common Pleas only, thereby assigning and mentioning the error in such decree, order or dismission, and requesting them to hear the Cause and to review and rectify such order, decree or dismission, and upon delivering of such Petition to the Chief Justice of the King's Bench for the time being, and upon the party or parties so petitioning, or some sufficient person on his behalf, entering into a Recognizance before such Chief Justice of the King's Bench, if the Petition be against a decree for anything to be paid or done, in double the value of the thing decreed, or if against any other order or dismission, in the sum of (*blank*) pounds, to prosecute his said Petition with effect, and in case the decree petitioned against be not performed before such Petition exhibited to perform such decree or such part thereof as shall be affirmed, within such time as shall be appointed upon such affirmation, and also to pay such reasonable and necessary costs as shall be adjudged against the petitioner or petitioners, either upon affirmance of such order, decree or

HOUSE OF LORDS MSS.

1692.

dismission, or upon dismission of his or their Petition for want of prosecution, the said Chief Justice shall make a certificate thereof and appoint a day for hearing of the said Cause, for which certificate the said Chief Justice shall have and receive the fee of (*blank*), and after such certificate * *shewed to the Court where the order, decree or dismission petitioned against was or shall be pronounced or made, and notice thereof given to* the other party or his Clerk in Court, all further prosecution upon such order, decree or dismission shall be wholly superseded, until the cause shall be heard and determined, pursuant to this Act, or the Petition dismissed for want of prosecution.

And be it further enacted by the authority aforesaid, That such of the said Justices of the King's Bench, Common Pleas and Barons of the Exchequer, to whom such Petition shall be exhibited as aforesaid, shall and are hereby empowered and required to hear every such cause and to review every such order, decree and dismission complained against by Petition exhibited in manner aforesaid, and in order thereunto, they are to assemble and meet together in some convenient place upon every Tuesday, Thursday and Saturday in the afternoon in term time, and every day for the next fourteen days together that is not Sunday after every term, and oftener if need shall require, and having due regard to the Common Law and Statutes of this realm, such of them to whom such Petition shall be exhibited as aforesaid, or any five of them, against whom no just exception shall be made at the hearing, and whereof one of the Chiefs shall be one, are to reverse, affirm or alter such order, decree or dismission, and to make such further order and decree therein as to them shall seem agreeable to equity and justice, and award the party prevailing his full reasonable costs thereby put unto and sustained, and after such order and decree, as shall be by them pronounced, shall be drawn up in form and signed by the major part of them that were present at such hearing, the same shall be remitted to and enrolled and put in execution in and by the Court where the order, decree or dismission complained against was or shall be made.

And for the better execution of this Act, Be it further enacted by the authority aforesaid, That the Register of the Court where the order, decree or dismission complained against was made, or his sufficient deputy, shall attend and observe the said Justices and Barons, at their sittings pursuant to this Act, to take notes and memorandums of the judgment and directions of the said Justices and Barons, and the said Justices and Barons, or the major part of them, shall appoint such other officers as shall be necessary at such hearings, and the Justices and Barons present at such hearing, and to whom by this Act it shall appertain, and the Register or his deputy and other officers attending the same, shall have and receive such fees for their attendance at such hearings, and for drawing and signing such order and decrees, as shall be made at such hearings, as the Lord Chancellor, Lord Keeper, Lords Commissioners for custody of the Great Seal, Register and other officers of the Chancery have usually had and received for or in respect of hearings, orders, decrees and dismissions in the Court of Chancery. [Read 1ª this day. (L. J., XV. 117.) No further proceedings.†]

602. Nov. 19. Davy *v.* Courtenay.—Petition and Appeal of Dorothy Davy, widow, and John Nicholls, the elder, and John Nicholls, the younger, Esquires. The late Sir James Smyth, Knt., having a real estate of 2,000*l.* a year and a personal estate of at least 20,000*l.*,

* Instead of the words in italics, the text originally ran thus: ("showed to the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal, or other judge of any other Court of Equity or to.")

† Compare the Bill of 1691. Calendar, 13th Report, No. 438.

and having great kindness for Petitioners Dorothy and John Nicholls the younger, his heirs-at-law, the former being eldest daughter of his only brother George, and the latter eldest son and heir of John Nicholls, deceased, son and heir of Lucy, another daughter of George, by the Petitioner John Nicholls the elder, declared in his lifetime his intention to leave one moiety of his lands to Dorothy and the other to John Nicholls the elder, during life, and afterwards to John Nicholls the younger in fee. Sir James falling sick about 1681 and being weak of intellect, was prevailed on to seal a will, devising all his property to Sir William Courtenay, James Lucy and Richard Osborne, on trust to pay the surplus, after discharging his debts, legacies and funeral expenses, to his widow Dame Anne, as his executrix. After his death, the trustees brought a Bill in Chancery against Dorothy and John Nicholls the elder, and the said John Nicholls, deceased, to discover their titles and to have the trust executed for payment of the debts and legacies, though there was not a single legacy devised by the will. Dorothy afterwards brought her ejectment for recovery of her moiety, but was forced to become nonsuit, the Judge refusing to examine her witnesses against the execution of the pretended will; and the late Lord Keeper North, on 17 June, 36 Car. II., decreed that she should join in a sale of the testator's lands, and ordered the lands to be sold, unless she gave notice within a fortnight of her intention to try her title at law against the will. Petitioners, living far remote from town, in Cornwall and Devon, failed to give such notice, and Dorothy, not daring to stir further in the reign of James II., delayed bringing another ejectment till 1689, when Respondents obtained two orders of the Court of Chancery, of Nov. 14 and 28 of that year, awarding a perpetual injunction against her. Pray that the Decree and Orders may be discharged, or at least that they may be allowed to try the validity of the will at law. *Signed* by Appellants; *Countersigned* by Edm. Gibbon and John Pratt. L. J., XV. 116. [The Cause was heard on 5 Jan. 1692–3. *Mr. Finch* (for Appellants): In 1681 Sir James Smyth made his will. We desire liberty to try our title at law. *Mr. Ward* (for Appellants): We desire a trial for the proof of our Will. *Serjeant Tremaine* (for Respondents) is heard. *Sir William Williams* (for Respondents): They have had a trial at law. Counsel for Appellants heard in reply. Counsel withdrew and Speaker reported. *Ordered* that a new trial be had, &c., as in L. J., XV. 173. (MS. Min.) For further proceedings see Notes to Annex (*g.*).]

Annexed:—

(*a.*) 3 Dec. Several Answer of Sir William Courtenay, Bart. Sir James Smyth's real estate was worth only about 700*l.* a year, and most of it was mortgaged for 4,000*l.*; and Respondent believes his personal estate was less than is alleged, being insufficient to pay his debts. He left his paternal estate of about 5,000*l.* or 6,000*l.* to descend to Respondents, who have since sold it. His will, devising all his lands to Respondents and to the trustees Jacob (not James) Lucy, since deceased, Lucy and Osborne, was made when he was of perfectly sound mind, and has been proved and its validity established at law, when Dorothy was nonsuited. The trustees being willing to be discharged of the trust, Lady Smyth in 35 Car. II. brought her Bill in Chancery against them, to have the trusts transferred to herself, and on 7 June of that year the L. Keeper North ordered them to assign their interest accordingly, which has since been done. Prays to be dismissed with costs. *Endorsed* as brought in this day.

HOUSE OF LORDS MSS.
1692.

(*b.*) 3 Dec. Answer of Richard Osborne, Esq. Knows nothing of Appellants' relationship to Sir James Smyth, nor of what kindness he promised them in his lifetime. Rest almost *verbatim* as in preceding. *Endorsed* as brought in this day.

(*c.*) 6 Dec. Petition of Appellants. The Respondents Courtenay and Osborne (Lucy being dead) have put in their answer, stating that they have assigned their trust to Lady Smyth. Pray that she may be made a party Respondent and ordered to answer, and that the Appeal may be further amended by altering Lucy's Christian name from James to Jacob. L. J., XV. 135.

(*d.*) 13 Dec. Answer of Dame Anne Smyth, widow. Sir James' real estate was not worth more than 500*l.* a year, and his personal estate was only 500*l.* Appellants have sold his paternal estate for 5,000*l.*, as she hears. Sir James owed upwards of 6,000*l.*, and mortgaged his lands as security to Sir Robt. Leake and Jacob Lucy, and having had a portion fortune and estate of 10,000*l.* with Respondent on her marriage, made his will on 21 Oct. 1681 in due form, and in possession of a sound mind and memory, leaving his property, after payment of his debts, &c., in trust for Respondent, who had nothing to expect besides this provision. The Appellant Dorothy suffered nonsuit after full evidence taken as to the will. Appellants are foreclosed of any further trial at law. Respondent has paid off or secured most of the mortgages and debts, and caused the mortgages to be assigned to others. *Endorsed* as brought in this day.

(*e.*) 16 Dec. Petition of Appellants for an early day for hearing, and that Lady Smyth or the trustees may produce the deed assigning the trust to her, or deliver a copy to Petitioners. L. J., XV. 149.

(*f.*) 7 Jan. 1692–3. Petition of Lady Smyth. Their Lordships have directed a feigned issue to be tried touching the validity of the will. (L. J., XV. 173.) Petitioner, the residuary legatee, having already paid 5,000*l.* or 6,000*l.* towards discharging testator's debts, is obliged to pay so much more, and must therefore sell the estate or be ruined by the growing interest. Col. Godfrey, one of the witnesses to the will, is dead since the last trial, and the other witnesses are aged and weak. Prays their Lordships to order a time for trying the said issue. *Endorsed* as read this day. [No entry in L. J. or MS. Min.]

(*g.*) 9 Jan. Petition of Appellants. The estate in question being in Cornwall, it will be impossible for Appellants to try the issue next term. Pray that the order for a new trial may be amended. L. J., XV. 177. [One Counsel of a side were heard the next day on this Petition. *Mr. Ward* (for Davy): Our witness is at Exeter. *Mr. Serjeant Tremaine* is heard for standing to the next term. Speaker reported. *Ordered* that the Order of the 5th inst. be so altered, that the Cause shall be tried before the end of Easter Term next. (MS. Min.; L. J., XV. 178.) No further proceedings.]

603. Nov. 21. Absent Lords (Call of the House).—Letter of date from Sir R. Atkyns, Speaker of the House, to L. Griffin, at Dingley, Staffordshire, informing his Lordship that he was found to be absent at the Call of the House this day, and requiring him to attend on 5 Dec., or send two persons to attest on oath his disability from sickness. L. J.,

XV. 119. *In extenso.* [On 14 Nov. the House being moved that a day be appointed for calling the House, a Call was ordered for this day. (L. J., XV. 110.) The List of Peers found Absent at the Call, as given in MS. Min., differs from that in L. J., XV. 118, in adding, "L. Clifford, Infra Ætatem." It states also that the Bishops of Chester and Exeter, both of whom were excused, were "coming." Another List in MS. Min., giving the names of Peers to whom letters were to be sent to require their attendance, includes L. Ferrers and L. Gray de Werke, neither of whom appears in L. J., XV. 118.]

Annexed:—

(*a.*) (L. Griffin.) Letter from Eliz. Meres, Postmistress of Harborough, to Sir Robert Cotton or Thomas Frankland, Esq., Postmasters General, London, returning preceding letter, as L. Griffin is gone to London and has been there since the beginning of the term. His seat is at Dingley, in Northamptonshire, but there is nobody there, except two or three of his meanest servants, for his Lordship and family live in Pall Mall, next door to the Duke of St. Albans. *Dated* Harborough, 26 Nov. [Appended to preceding.]

(*b.*) (E. Sandwich.) Letter from Cath. Torkington, of Huntingdon, to same, stating that she had caused the letter from the House of Lords to be delivered to E. Sandwich. *Endorsed* 25 Nov.

(*c.*) (E. Berks.) Letter from John Freeman, Postmaster of Highworth, to same, stating that he had forwarded the letter to E. Berks to Mr. Andrewes, Postmaster at Malmesbury, who had delivered it to his Lordship as desired. *Dated* Highworth, 26 Nov.

d.) (E. Bristol). Letter from John Boys, Postmaster of Sherborne, to same, stating that he had delivered the letter, pursuant to their Honours' command, to E. Bristol. *Dated* 26 Nov.

(*e.*) (L. Weymouth.) Letter from Thos. Yerbury, Postmaster of Warminster, to same, stating that he had sent the letter to L. Weymouth. *Dated* 26 Nov.

(*f.*) (D. Beaufort.) Letter from Ann Stephens to same, stating that she had caused the letter to be delivered to Mr. Crow, the D. Beaufort's gentleman. *Dated* Chippenham, 26 Nov.

(*g.*) (L. Ward.) Letter from Mrs. H. Price, of Stourbridge, Worcestershire, to same, stating that L. Ward left last Tuesday with his family for London. *Dated* 26 Nov.

(*h.*) (L. Clarendon.) Letter from A. Paine, Postmistress of Reading, to same, stating that she had caused the letter to be delivered to L. Clarendon. *Dated* 27 Nov.

(*i.*) (L. Lempster.) Letter from Thos. Whittear, Postmaster of Towcester, to same, stating that L. Lempster left for London on Wednesday last, intending to be on Friday at his house in Duke Street, Westminster, whither the letter had been sent. *Dated* 27 Nov.

(*k.*) (L. Gray de Werke.) Letter from John Pincke, Postmaster of Midhurst, to same, stating that he had caused the letter to be delivered to L. Gray de Werke, who refused to pay the messenger, saying it was the King's business. *Dated* 27 Nov.

(*l.*) (E. Exeter.) Letter from Eliz. Dawkins, Postmistress of Stamford, to same, stating that she had sent the letter to E. Exeter. *Dated* 27 Nov.

(*m.*) (L. Saye and Sele.) Letter from Thos. Welford, Postmaster of Banbury, to same, stating that he had sent the letter to

HOUSE OF LORDS MSS.

1692.

L. Saye and Sele, who was in Worcestershire, about 20 miles off, and that the messenger had not yet returned. Will give a farther account by next post. *Dated* 27 Nov.

(*n.*) (E. Rutland.) Letter from John Wyldbore, Postmaster of Grantham, to same, stating that he had caused the letter to be delivered to E. Rutland, who was ill, through his secretary. Encloses a letter from his Lordship. *Dated* 27 Nov. [*See* next Paper.]

(*n*[1].) Letter from E. Rutland [to Sir R. Atkyns, Speaker]. Has received his Lordship's letter of 21 Nov., requiring his attendance on 5 Dec., which he would pay with cheerfulness, would health permit. But the colic and rheumatic pains have rendered him so incapable of motion, that he is confined to his chamber and forced to send two servants to attest his present disability to attend. *Dated* Belvoir, 2 Dec. 1692.

(*o.*) (E. Lichfield.) Letter from Jane Gibbs, Postmistress of Woodstock, to same, returning the letter, as she finds on enquiry that E. Lichfield is not in the country. His house is in James' Street, Westminster. *Endorsed* 28 Nov. [*See* next Paper.]

(*o*[1].) Letter from Sir R. Atkyns, Speaker of the House of Lords, to E. Lichfield, returned with preceding. *Dated* 21 Nov.

(*p.*) Letter from L. Ferrers to Sir R. Atkyns, Speaker of the House of Lords, as follows: "My Lord, I reseved y[e] six and twentith of this monnth your Lord[sps] of y[e] one and twentith, by which you acquant me that unles I attend y[e] house y[e] fifth of Desember I shall incur y[e] farther displeasure of y[e] House (if sicknes do not prevent me) which I thanke God I can not aledg, but I can this in excuse of my past absence, that haveing a Proxe alowed of & in such good hands as my vote wold not be beter given by my presance, did not thinke my selfe as alltogether absent, which made me one y[e] account of sum exterordinary famaly bisnes defer my attendance & y[e] same still remaning I hope there Lord[sps] will grant me sum longer time, which request I desier your Lord[sp] will make for me in y[e] most prevaling termes you can, & in it you will oblige, My Lord, your humble Sarvant R. Ferrers. Staunton, No. 26, '92." *Holograph.* Addressed to Sir R. Atkyns "att Kingsinton." [An entry in MS. Min. of 2 Dec. states: "A Letter from L. Ferrers read, in excuse of his absence."]

604. Nov. 22. Hore *v.* Moulten.—Petition and Appeal of John Hore. Petitioner, as son and heir and executor of Matthew Hore, brought his bill in Chancery against John Moulten and others, to redeem a mortgage of certain lands called Robin's Tenement, and for a reassignment of another tenement called Maraborough and an account of the profits received of each, both of which were claimed by Moulten, who insisted on a release of the equity of redemption. On 18 June 1689 the Lords Commissioners relieved Petitioner as to Maraborough tenement, and decreed an account of the profits towards satisfaction of the mortgage money due on Robin's tenement, and set aside the release as fraudulent, and decreed a redemption of Robin's tenement with an account of profits. The Master reported 478*l.* due to Respondent. Petitioner excepted to this account, but was overruled by the Lords Commissioners on 17 Dec. 1691, who ordered him to pay the sum reported due, and by a subsequent Order dismissed his Bill with costs, for which Petitioner has since been attached. Prays that the orders may be set aside, Respondent ordered to answer, and proceedings stayed.

Signed by Appellant; *Countersigned* by Ja. Stedman and Caven. Weedon, whose signatures are copied. L. J., XV. 121. [The Cause was heard, and the Decree affirmed on 4 Jan. 1692–3. *The Attorney General* and *Solicitor General* were heard for the Appellant, and *Serjeant Tremaine* and *Sir Thomas Powys* for the Respondent. (L. J., XV. 173; MS. Min.)]

Annexed :—

(*a.*) 6 Dec. Answer of John Moulten. The release was got quite fairly and not by any fraud. Appellant's exceptions to the Master's report were frivolous. If the release be set aside, Appellant still owes 496*l.* to Respondent. The estates are of no greater yearly value than the Master reported them. The Appeal is brought merely for delay. Prays that it may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Nic. Hooper, whose signature is copied. *Endorsed* as brought in this day.

605. Nov. 22. Macclesfield's Estate Act.—Amended draft of an Act to enable Ralph Macclesfield to sell lands for payment of debts and making provision for his wife and children. The Lords' amendments (Com. Book, 3 Dec.) are purely clerical, as was the amendment made by the Commons. [Read 1ª this day (MS. Min. No entry of first reading in L. J.) Royal Assent 26 Jan. 1692–3; (L. J., XV. 203). 4 W. & M. c. 16. in Long Calendar.]

Annexed :—

(*a.*) 3 Dec. Consent of Ralph Macclesfield (*signs* Raph Macclesfeild) and Dorothy, his wife, and Walter Jenings, Jno. Huntbach, and Jo. Danyell, trustees, to the passing of the Bill. The first four signatures are attested by Roger Foden, Gent., of Meare, Staffordshire, on 7 Nov. 1692, before Wm. Nabbs, Master in Chancery, Extraordinary, and the last by John Ames, of Leacroft, Staffordshire, on 26 Nov., before Robt. Legard, Master in Chancery. The Consents are subscribed to a copy of the Act. [Read in Committee this day. Com. Book.]

606. Nov. 23. Hurt *v.* Attorney General of the Duchy of Lancaster, at the relation of Eyre.—Petition and Appeal of Nicholas Hurt, Esq., and Elizabeth, his wife, sister and heir of John Low, Esq., who was son and heir of John Low, who was son and heir of Edward Low. Henry VIII. granted to his then servant Anthony Low, at a fee-farm rent of 26*l.* 10*s.*, the manner of Alderwasley, with a waste called the Milkey, and a piece of land called the Mill land. The same were held under the grant till 1635, when an Information was exhibited by the Attorney General against Edward Low and several of the tenants, claiming the Milkey as part of the royal forest of Duffield. The Court in 1638, instead of dismissing the Information, directed a new Commission, contrary to all practice, to examine witnesses on prosecutor's behalf; and the cause being heard again in 14 Car. I., Low was put to prove livery upon the grant, and on his failing to do so, in consequence of the evidence being detained by one Mr. Ferne, to whom he had been in ward, the grant was declared void, and Low was directed to attend the Chancellor for a composition. Low's solicitor, in his absence and without his privity, consented, out of fear for the whole estate, that the King should have a moiety of the Milkey (all but 200 acres), containing 1,044 acres, leaving to Low, who was to make the fences, the other moiety all but 350 acres for the commoners. This partition was confirmed by a decree of 24 May, 15 Car. I. The said King afterwards

HOUSE OF LORDS MSS.

1692.

granted the 1,044 acres by Letters Patent to Richard Nevill and heirs at the yearly rent of 35*l.* 19*s.*, with a covenant to indemnify them from all common and claim of any others. Against this Decree and Grant Low appealed to the House, but the Civil Wars prevented the effectual prosecution of his Appeal, and meanwhile the fences were thrown down and the Milkey was enjoyed as formerly in common during the life of Nevill, who made no benefit by it, and remained in exile with Charles II. till 1654, when he died, leaving a son George, a stranger to the grant, who also died in 1660, leaving an infant son George. Edward Low and his five sons were all in the service of Charles I. during the Civil War, and were plundered and imprisoned for their loyalty. On his death in 1650, his son and heir John brought an action of trespass against John Gell, Esq., and others, for digging soil and cutting trees on the Milkey, and obtained a verdict before C. Justice Hales, when the grant of Henry VIII. and the livery were allowed. In 1677, one Thomas Eyre, a barrister-at-law, got the 1,044 acres seized into the King's hands for arrears of rent since 1660, and got a lease from Charles II. at 5*l.* a year, and exhibited an Information against George Nevill, then an infant, and John Low the son for possession of the Milkey. George Nevill, by his guardian, brought a Cross Bill in the Duchy Court against Eyre and the Attorney General to be discharged of the arrears; but the Chancellor of the Duchy, on hearing both causes on 19 May, 1681, decreed the 1,044 acres and the Milkey, except the 200 acres allotted to the commoners, to Eyre, so long as they should remain in the King's hands, by reason of an extent and seizure for a debt of 590*l.* due to the King by Nevill on a fee-farm rent for the Milkey. Sir Thomas Chiceley, late Chancellor of the Duchy, affirming to John Low the son that he had an interest in the Milkey, and Low believing him, the latter, for quieting his possession, took in the estate and title of George Nevill and after the estate and interest of Chiceley, and was continued in possession till his death in 1690, since which the Milkey has been held by Appellants, whom Eyre is prosecuting under the Decree of 1681. Pray that this Decree may be reversed and Respondents ordered to answer. *Signed* by Appellants; *Countersigned* by Tho. Trevor and Tho. Powys, whose signatures are copied. L. J., XV. 122. [On 14 Dec., after hearing *Sir William Whitelocke* and *Sir Thomas Powys* for Appellants, and *Mr. Ward* and *Mr. Dodd* for Respondents, the House dismissed the Appeal for want of a proper Appellant. (L. J., XV. 148; MS. Min.) Another Appeal was brought on 17 Dec., for which see Calendar under date.]

Annexed:—

(*a.*) 30 Nov. Answer of Edward Northey, Esq., their Majesties' Attorney of their Duchy of Lancaster. Respondent is a stranger to the Decree appealed from, the same having been made long before his time of office. Submits to their Lordships' judgment. *Signed* by Respondent; *Countersigned* by Godf. Thacker. *Endorsed* as brought in this day.

(*b.*) 30 Nov. Answer of Thomas Eyre, Esq. Respondent, living near the forest of Duffield, and knowing the damage long done to the Crown by John Low and his confederates, gave an account thereof, as was his duty, to Charles II. and the officers of his revenue, and for his reward obtained a grant of part of the lands. The decree of partition was made with the consent of Appellants and the Commoners. Richard Nevill confederated to defraud the King of the reserved rent, and quitted possession without suit or eviction, and allowed the fences to be demolished. The lands in question have been adjudged to be the undoubted

right of the Crown, not only against Appellants but also against George Nevill by a decree in the Duchy Court of 1 June last. Prays to be dismissed with costs. *Signed* by Respondent; *Countersigned* by Godfr. Thacker and Na. Reading. *Endorsed* as brought in this day.

607. Nov. 24. Hawley's Estate Act.—Amended Draft of an Act for vesting the estate, real and personal, late of Henry Hawley, in Trustees, to be sold or otherwise disposed for the benefit of his daughters and heirs, Susanna and Mary, who are both minors. The only amendment by the Lords (Com. Book, 2 Dec.)* is to add William Turton as a trustee. No amendments in the Commons. [Read 1ª this day; Royal Assent 20 Jan. 1692-3 (L. J., XV. 124, 192). 4 W. & M. c. 4. in Long Calendar.]

608. Nov. 25. Indemnity Act.—Amended Draft of an Act for preventing suits against such as acted for their Majesties' Service in defence of the Kingdom. Identical, before being amended, with the Act 4 W. & M. c. 19. (Fol. Ed.) The Amendments consist of the clauses appended to this Draft for engrossment, and given as Annexes below. [On 17 Nov., the House being moved that a Committee be named to prepare a Bill of Indemnity, it was ordered that the House be put into Committee on the 22nd to consider of Heads for a Bill. (MS. Min.; L. J., XV. 114.).—On 23 Nov., on motion for a day to go into Committee, the House appointed the next day for that purpose. (MS. Min.; L. J., XV. 123).—On 24 Nov., in Committee of the Whole House, E. Stamford in the Chair, the Act of Indemnity, 2 Will. & Mary, was read. *Moved* that the title of the Act be An Act to prevent Suits against such as acted in their Majesties' Service in defence of the Kingdom. The title postponed. "Whereas there was certain intelligence of an Invasion intended from France." *Agreed*, that the Lords of the Council, and those that acted by their authority, shall be indemnified. House resumed. *E. Stamford* reported progress, &c., as in L. J., XV. 124 (MS. Min.). On 25 Nov., in Committee of the Whole House, E. Stamford in the Chair, the Clauses agreed yesterday were read. The Committee went through the Bill. House resumed. *E. Stamford* reported the form of the Bill drawn by the Committee, to which the House agreed. Bill read 1ª (MS. Min.; L. J., XV. 125).

On 30 Nov., after a second reading, the House went into Committee on the Bill, E. Stamford in the Chair.

The Bill was read through.

Title read and postponed.

Preamble read; the Enacting Clause read. *Moved*, That if any man be sent for by the Council, and he offers to take the Oaths and give sufficient bail, it shall not be in their power to commit him. The person to declare on oath, that if the late King James shall endeavour to recover his pretended right, he will oppose him to the utmost of his power. *Question*, Whether the same oath and sufficient bail, or a negative oath and sufficient bail? *Agreed* to have bail. *Judge* asked, what bail is sufficient? A. It must of necessity be referred to the discretion of the Judges that are to take it. *Judge* asked, if it might be thought excessive bail, if the Council put more than 1,000*l.*, and 500*l.* each surety? A. There must be a regard had to the necessity and the person. *Agreed*, that sufficient bail shall be in the Act. *Question*, Whether the old Oath shall be part of the Clause, or any other Oath that shall hereafter be

* The Committee was revived on 29 Nov. for 2 Dec. (MS. Min.).

HOUSE OF LORDS MSS. 1692.

established by Parliament? *Question*, Whether these words ("or any other oath that shall hereafter be established by Parliament") shall be part of the Question? Resolved in the *Affirmative*. Then the *Question* was put: Whether this oath, I, A. B. [&c. as in Annex (*a*) below], with this addition ("or any other oath that shall be established in this or any other Session of Parliament")? *Agreed.*

House resumed. *E. Stamford* reported that the Committee have agreed that a Clause be drawn to prevent the Council imprisoning persons in time of imminent danger in future, by tendering the Oath already made, or any other Oath established by Parliament. The House then appointed a Sub-Committee, with the Judges to assist, to draw a Clause for that purpose. (MS. Min.; L. J., XV. 130.) The Sub-Committee met forthwith, and after agreeing on a Clause (Com. Bock), reported it at the same sitting, and the House agreed to it with some additions.* (MS. Min.; L. J., XV. 130.)

On 1 Dec. an expunged entry in MS. Min. states, "A debate arose concerning the proceedings upon the Bill of Indemnity yesterday."

On 2 Dec., in Committee of the Whole House, E. Stamford in the Chair, the enacting Clause was read. *Proposed*, That provision be made in the Bill that, after any person shall be secured, he may be discharged. *The Judges* withdraw to draw a Clause.*

House resumed.

House adjourned during pleasure into C. W. H. The Clause drawn by the Judges was read, and after debate, on question, agreed to. House *Moved*, That this Act be made temporary only during the War with France. *Agreed:* the Judges to draw a Clause to this purpose.* *Proposed*, That the whole Council shall do this, and not a Committee of Council. House resumed. Progress reported. (L. J., XV. 132; MS. Min.)

On 5 Dec., in Committee of the Whole House, E. Stamford in the Chair, the Clause drawn by the Judges was read and *agreed to. Judges* asked (*sic*). That the Committee is of opinion that the powers given by this Act shall not be executed but by the whole Privy Council. A Clause drawn and read, as follows ("Provided always that no such commitment shall be but by the Privy Council, to which every Privy Councillor may come"). *Question* put: Whether this Clause shall be part of the Bill? Resolved in the *Negative*. House resumed, and progress reported as in L. J., XV. 134 (MS. Min.).

On 5 Jan., in Committee of the Whole House, L. Cornwallis in the Chair, the Preamble, enacting Clause and Title were read and agreed to. House resumed. Bill reported with the amendments and provisos. The Clauses agreed to in C. W. H. were read, and the Bill ordered to be engrossed with the said Clauses. (L. J., XV. 174; MS. Min.)

In the Commons, where the second reading of the Bill was carried on 27 Feb. by 124 votes to 76 (C. J., X. 835), the Clauses added in C. W. H. by the Lords were struck out and the Bill restored to its original form (*ib.* 847). The Lords agreed to this amendment on 10 March (L. J., XV. 283), and the Bill received the Royal Assent on 14 March (*ib.* 288.)]

Annexed:—

(*a.*) 5 Jan. 1692–3. Copy of Clauses added to the Bill, as follows:—

And be it further enacted by the authority aforesaid, That if in a time of imminent danger for the security of the

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* *See* Annex (*a*).

peace of the Kingdom, their Majesties' Most Honourable Privy Council shall think it reasonable to send for any person or persons suspected to be dangerous to the Government, against whom there shall not be some positive oath made of some treasonable practices, that in case such person or persons, so sent for or taken into custody, against whom no such oath shall have been made as aforesaid, shall, upon tender to him or them, take the Oath following, viz., I, A. B., do sincerely promise and swear that I will be faithful and bear true allegiance to their Majesties King William and Queen Mary. So help me God, being the Oath appointed in one Act intituled An Act for abrogating of the Oaths of Supremacy and Allegiance and appointing other oaths, or any oath that shall be enacted in this or any other Parliament, and also enter into a Recognizance with sufficient sureties (which the said Privy Council are hereby empowered to take), having regard to the quality of the person so suspected and the circumstances under which he stands, that the said Privy Council or any of them shall have no power to commit any such person or persons so suspected, but every such commitment shall be void and of none effect; but in case such person or persons shall refuse to take such oath or oaths, or to give such security as aforesaid, that then it shall or may be lawful to and for the said Privy Council or any six of them, to commit such person or persons to prison and continue him or them in custody, until he or they be discharged by due course of law. And if any such person or persons happen to be committed in time of imminent danger of insurrection or invasion, by reason of their refusing to take the said oath or oaths and to find bail as aforesaid, that such person or persons shall not be continued or detained in custody for any longer time than such imminent danger shall continue.

Provided always that no person or persons so committed shall be detained in custody for any longer time than they might have been by an Act made in the 31st year of the reign of King Charles II., intituled An Act for the securing the liberty of the subject and for prevention of imprisonment beyond the seas.

Provided always that this Act or anything therein contained (except what relates to the indemnifying the parties concerned in the proceedings in the extraordinary occasion * abovementioned), shall not continue longer than till the determination of the present War against France. [Reported this day. (L. J., XV. 174). See Notes above.]

609. Nov. 26. Walthall's Estate Act.—Amended Draft of an Act to enable Richard Walthall, Esquire, to sell lands for the payment of Portions and Debts. The Lords' amendments (Com. Book, 20 Dec.) are two drafting ones and the addition of a Proviso (Annex (*a.*) below). No amendments in the Commons. [Read 1ª this day; Royal Assent 14 March 1692–3 (L.J., XV. 126, 289.) 4 & 5 W. & M. c. 28. in Long Calendar. In Committee on 5 Dec. *Mr. Minshall* stated that Mr. Walthall barred himself by the Bill of the commitment of waste in cutting timber, which he might do to the value of 1,500*l.* *Ordered*, that the Prosecutors of the Bill endeavour to make appear that the heir will not be prejudiced by the Bill. (Com. Book, 5 Dec.) On 20 Dec. the parties being called in, *Mr. Minshall* says they shall give a full equivalent for the money to be raised. We

* Substituted for "juncture."

HOUSE OF LORDS MSS.

1692.

can cut down wood worth 1,500*l.* The 900*l.* for the younger brothers the estate is charged with. We have power of leasing, which is worth 1,200*l.* We can make a jointure of 100*l.* a year, all which we are willing to debar ourselves of. *Mr. Humphry Milton* (sworn) says he has viewed the wood on Mr. Walthall's estate, and really believes it worth 1,500*l.*, and that it will be worth 500*l.* more to the heir than to any other person. The estate is worth about 630*l.* a year. If he were Mr. Walthall's heir, he would give him 1,500*l.* for his power of leasing the estate. He believes if Mr. Walthall live 10 or 12 years, he may make 1,200*l.* of the leases. (Com. Book, 20 Dec.)]

Annexed:—

(*a.*) 31 Dec. Draft Proviso A. disabling Richard Walthall from making any jointure, &c., or lease of any of the lands in the deed of settlement. [Added in Committee 20 Dec. (Com. Book), and reported this day. (L. J., XV. 167.)]

ACCOUNTS COMMISSIONERS.

HOUSE OF LORDS MSS.
1692.

610. Nov. 28.—ACCOUNTS COMMISSIONERS.—Book entitled, The by Loans and Repayment in satisfaction thereof, Incomes and at the Post Office. A General Abstract of all the said Accompts,

Fol. 1.

The GENERAL ACCOUNT of MONEY borrowed on LOANS from 28 Sept. 1691 to 28 Sept. 1692.

	£	s.	d.	£	s.	d.
Borrowed on—						
The first 12 *months Aid* :—						
From 28 Sept. to 1 Jan. 1691 - -	6,913	12	3½			
From thence to 1 April 1692 - -	475	3	11			
				7,388	16	2½
Second 12 *months Aid* :—						
From 1 Jan. 1691 to 1 April 1692 -	807,883	7	2			
From thence to 1 July 1692 - -	575,214	0	10			
To 28 Sept. 1692 - - - -	166,729	0	0			
				1,549,826	8	0
Hereditary and ¼ *Temporary Excise* :—						
From 28 Sept. to 1 Jan. 1691 - -	20,000	0	0			
From thence to 1 April 1692 - -	40,000	0	0			
To 1 July 1692 - - - -	20,500	0	0			
				80,500	0	0
Additional Excise :—						
From 1 Jan. to 1 April 1692 - -	—			4,000	0	0
Hereditary and Temporary Excise :—						
From 1 July to 28 Sept. 1692 - -	—			69,000	0	0
¼ *Customs* :—						
From 1 July to 28 Sept. 1692 - -	—			50,000	0	0
¾ *Customs* :—						
From 1 Jan. 1691 to 1 April 1692 -	157,684	9	2			
From thence to 1 July 1692 - -	110,531	1	3½			
To 28 Sept. 1692 - - - -	167,211	11	7½			
				435,427	2	1
East India Goods :—						
From 1 Jan. 1691 to 1 April 1692 -	14,502	18	1			
From thence to 1 July 1692 - -	104,946	12	1			
To 28 Sept. 1692 - - - -	72,029	19	9			
				191,479	9	11
Quarterly Poll :—						
From 1 July to 28 Sept. 1692 - -	—			165,288	14	0
General Loans :—						
From 28 Sept. 1691 to 1 Jan. 1691 -	37,500	0	0			
From thence to 1 July 1692 - -	343,201	6	5			
To 28 Sept. 1692 - - - -	144,805	1	11	525,506	8	4
				3,078,416	18	6½

Accompts for the Year ending the 29th of September 1692, of Receipts Issues at the Exchequer, at the Custom House, at the Excise Office, as follows:—

Fol. 2.

The GENERAL ACCOUNT of REPAYMENT of LOANS with INTEREST, from 28 Sept. 1691 to 28 Sept. 1692.

Paid in satisfaction of Loans on the several Funds under-named, viz.:—	Principal. £ s. d.	Total. £ s. d.	Interest. £ s. d.
First 12 *months Aid*:—			
From 28 Sept. 1691 to 1 Jan. 1691.	382,458 0 0	—	17,624 9 3
From thence to 1 April 1692.	380,155 0 6	—	14,302 19 0
To 1 July 1692 -	68,008 11 3½	—	2,689 15 11
To 28 Sept. 1692 -	1,180 0 0	—	31 17 6
		831,801 11 9½	
Second 12 *months Aid*:—			
From 1 Jan. 1691 to 1 April 1692.	1,530 0 0	—	22 17 7
From thence to 1 July 1692.	350,579 13 9	—	8,921 13 6
To 28 Sept. 1692 -	344,168 11 0	—	11,644 3 8
		696,278 4 9	
Hereditary and ¼ Temporary Excise:—			
From 28 Sept. 1691 to 1 Jan. 1691.	20,000 0 0	—	
From 1 April to 1 July 1692.	60,500 0 0	—	
		80,500 0 0	
¾ *Temporary Excise*:—			
From 28 Sept. 1691 to 1 Jan. 1691.	46,780 13 4	—	2,747 15 7
From thence to 1 April 1692.	45,225 0 0	—	2,238 13 3
To 1 July 1692 -	13,542 8 10	—	830 1 9
		105,548 2 2	
Additional Excise:—			
From 28 Sept. 1691 to 1 Jan. 1691.	14,500 0 0	—	13,768 15 10
From thence to 1 April 1692.	45,000 0 0	—	10,821 16 2
To 1 July 1692 -	59,000 0 0	—	20,319 11 3
To 28 Sept. 1692 -	49,000 0 0	—	12,054 1 8
		167,500 0 0	
Hereditary and Temporary Excise:—			
From 1 July to 28 Sept. 1692.	—	69,000 0 0	
¼ *Customs*:—			
From 1 July to 28 Sept. 1692.	—	20,000 0 0	1,176 13 6
¾ *Customs*:—			
From 28 Sept. to 1 Jan. 1691.	99,266 13 4	—	5,649 15 7
Transported -	—	1,970,627 18 8½	124,845 1 0

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 1—*cont.*

The GENERAL ACCOUNT of MONEY borrowed on LOANS from 28 Sept. 1691 to 28 Sept. 1692—*continued.*

	£	s.	d.	£	s.	d.
Transported -		—		3,078,416	18	6½

for the Year ending the 29th of September 1692—*continued.*

Fol. 2—*cont.*

The GENERAL ACCOUNT of REPAYMENT of LOANS with INTEREST, from 28 Sept. 1691 to 28 Sept. 1692—*continued.*

	Principal. £ s. d.	Total. £ s. d.	Interest. £ s. d.
Transported -	—	1,970,627 18 8½	124,845 1 0
¾ *Customs*—cont.			
From thence to 1 April 1692.	66,926 6 0	—	3,591 9 8
To 1 July 1692 -	84,556 4 11	—	3,528 13 10
To 28 Sept. 1692 -	122,376 18 2	—	3,351 18 5
		373,126 2 5	
East India Goods :—			
From 28 Sept. to 1 Jan. 1691.	33,712 18 8	—	2,018 1 3
From thence to 1 April 1692.	15,179 17 11	—	4,068 4 6
To 1 July 1692 -	48,100 9 10	—	3,040 6 2
To 28 Sept. 1692 -	33,025 0 0	—	3,832 19 4
		130,018 6 5	
Continued Impositions :			
From 28 Sept. to 1 Jan. 1691.	36,905 0 0	—	14,905 14 10
From thence to 1 April 1692.	53,861 8 0	—	12,068 7 11
To 1 July 1692 -	66,205 19 6	—	14,990 0 2
To 28 Sept. 1692 -	66,627 19 9½	—	6,180 5 2
		223,600 7 3½	
Quarterly Poll :—			
From 1 July to 28 Sept. 1692.	—	94,500 0 0	
General Loan :—			
From 1 Jan. 1691 to 1 April 1692.	37,500 0 0	—	259 8 4
From thence to 1 July 1692.	45,000 0 0	—	
		82,500 0 0	
		2,874,372 14 10	196,680 10 7
To borrowed this year more than repaid.	—	204,044 3 8½	
To balance -	—	3,078,416 18 6½	

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 3.

AN ACCOUNT of so much of the NEAT PRODUCE of the REVENUE and TAXES, as was brought into the Exchequer from 28 Sept. 1691 to 28 Sept. 1692, and also the OVERPLUS of LOANS, within the said time, more than has been repaid.

	£ s. d.	£ s. d.	£ s. d.
Remaining in cash 28 Sept. 1691.	—	—	63,182 5 4¼
Received more on the following funds, viz.:—			
On ¼ Customs:—			
From 28 Sept. 1691 to 1 Jan. 1691.	46,517 8 6		
From thence to 1 April 1692	11,217 12 1½		
To 1 July 1692 - -	1,849 12 3		
To 28 Sept. 1692 - -	6,126 14 3		
		65,711 7 1½	
¾ *Customs:*—			
From 28 Sept. 1691 to 1 Jan. 1691.	114,774 13 5		
From thence to 1 April 1692	60,474 15 8½		
To 1 July 1692 - -	88,142 16 2½		
To 28 Sept. 1692 - -	128,315 3 3		
		391,707 8 7	
Coinage:—			
From 28 Sept. to 1 Jan. 1691.	4,500 0 0		
From thence to 1 April 1692	300 0 0		
To 1 July 1692 - -	4,140 3 4½		
To 28 Sept. 1692 - -	2,300 0 0		
		11,240 3 4½	
4½ *per Cent.:*—			
From 1 Jan. 1691 to 1 April 1692.	2,000 0 0		
From thence to 28 Sept. 1692.	420 0 0		
		2,420 0 0	
			471,078 19 1
ON NEW IMPOSITIONS, viz.:—			
East India Goods:—			
From 28 Sept. to 1 Jan. 1691.	37,159 0 5		
From thence to 1 April 1692	16,828 10 11		
To 1 July 1692 - -	50,265 1 3		
To 28 Sept. 1692 - -	38,464 1 10		
		142,716 14 5	
Wine and Vinegar:—			
From 28 Sept. 1691 to 1 Jan. 1691.	10,831 9 7		
From thence to 1 April 1692	26,970 14 8		
To 1 July 1692 - -	56,405 8 8		
To 28 Sept. 1692 - -	36,539 8 0		
		130,747 0 11	
Tobacco and Sugar:—			
From 28 Sept. 1691 to 1 Jan. 1691.	46,769 19 1		
From thence to 1 April 1692	40,097 5 1½		
To 1 July 1692 - -	20,129 16 4		
To 28 Sept. 1692 - -	37,446 11 10½		
		144,443 12 5	
			417,907 7 9
Transported -	—	—	952,168 12 2¼

for the Year ending the 29th of September 1692—*continued.*

Fol. 4.

An ACCOUNT of what has been issued out of the EXCHEQUER between 28 Sept. 1691 and 28 Sept. 1692, except the issues in satisfaction of LOANS, which appear by a distinct account thereof.

	£ s. d.	£ s. d.	£ s. d.
Paid to the several persons following, viz.:—			
The Right Hon. Edward Russell, Esq., for the Navy:—			
From 28 Sept. 1691 to 1 Jan. 1691.	21,035 14 0		
From thence to 1 April 1692	419,067 15 8½		
To 1 July 1692 - -	507,347 10 0		
To 28 Sept. 1692 - -	284,973 0 10½		
		1,232,424 0 7	
The Hon. Chas. Bertie, Esq., Treasurer to the Ordnance:—			
From 28 Sept. 1691 to 1 Jan. 1691.	6,000 0 0		
From thence to 1 April 1692	40,371 0 9½		
To 1 July 1692 - -	166,405 13 5		
To 28 Sept. 1692 - -	40,135 11 1½		
		252,912 5 4	
The Right Hon. Earl of Ranelagh, for the Army:—			
From 28 Sept. 1691 to 1 Jan. 1691 - 154,079 19 5½			
To 1 April 1692 - 211,466 14 4			
To 1 July 1692 - 354,221 8 1½			
To 28 Sept. 1692 - 365,215 2 0			
	1,084,983 3 11		
Mr. Fox and Lord Conyngsby for the Irish Army:—			
From 28 Sept. 1691 to 1 Jan. 1691 - 72,584 18 4			
To 1 April 1692 - 332,364 4 8½			
To 1 July 1692 - 255,071 3 3			
To 28 Sept. 1692 - 150,939 5 8½			
	810,959 12 0		
		1,895,942 15 11	
			3,381,279 1 10
CIVIL LIST:—			
The Right Hon. Earl of Bellemont, Treasurer to Her Majesty:—			
From 28 Sept. 1691 to 1 Jan. 1691.	22,500 0 0		
To 1 April 1692 - -	13,000 0 0		
To 1 July 1692 - -	13,000 0 0		
To 28 Sept. 1692 - -	13,000 0 0		
		61,500 0 0	

HOUSE OF LORDS MSS.
1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 3—*cont.*

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	952,168 12 2¼

Fol. 5.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	952,168 12 2¼
EXCISE.			
Arrears of Last Year's Double Excise :—			
From 28 Sept. 1691 to 1 Jan. 1691.	150,204 10 10		
From thence to 1 April 1692.	47,866 12 7		
To 1 July 1692 - -	1,134 2 11½		
To 28 Sept. 1692 - -	310 10 11½		
		199,515 17 4	
Hereditary and ¼ Temporary Excise :—			
From 28 Sept. to 1 Jan. 1691 -	49,802 8 9½		
To 1 April 1692 -	39,558 12 9		
To 1 July 1692 -	99,334 17 0½		
	188,695 18 7		

for the Year ending the 29th of September 1692—*continued*.

Fol. 4—*cont.*

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			61,500	0	0	3,381,279	1	10
PRIVY PURSE :—									
From 28 Sept. 1691 to 1 Jan. 1691.	13,000	0	0						
From thence to 1 April 1692.	12,000	0	0						
To 28 Sept. 1692 - -	2,500	0	0						
				27,500	0	0			
SECRET SERVICE :—									
To Hen. Guy, Esq., and the Earl of Nottingham :—									
From 28 Sept. to 1 Jan. 1691 - 6,260 13 0									
To 1 April 1692 - 6,330 1 $7\frac{1}{2}$									
To 1 July 1692 - 10,811 3 $9\frac{3}{4}$									
To 28 Sept. 1692 - 6,699 2 4									
	30,101	0	$9\frac{1}{4}$						
To the Lord Sydney for the like service.	500	0	0						
Sir Stephen Evance for the like.	12,000	0	0						
				42,601	0	$9\frac{1}{4}$			
Transported -	—			131,601	0	$9\frac{1}{4}$	3,381,279	1	10

Fol. 6.

	£	s.	d.	£	s.	d	£	s.	d.
Transported -	—			—			3,381,279	1	10
Civil List transported	—			131,601	0	$9\frac{1}{4}$			
The Cofferer :—									
From 28 Sept. 1691 to 1 Jan. 1691.	9,624	16	0						
From thence to 1 April 1692.	37,618	19	11						
To 1 July 1692 - -	18,501	12	0						
To 28 Sept. 1692 - -	37,854	12	0						
				103,599	19	11			
Treasurer of the Chamber :—									
From 28 Sept. 1891 to 1 Jan. 1691.	1,506	0	0						
From thence to 1 April 1692.	13,591	18	8						
To 1 July 1692 - -	1,098	12	$1\frac{3}{4}$						
To 28 Sept. 1692 - -	16,736	4	3						
				32,932	15	$0\frac{3}{4}$			
Transported -	—			268,133	15	9	3,381,279	1	10

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 5—*cont.*

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	188,695	18	7	199,515	17	4	952,168	12	2¼
¾ *Temporary Excise* :—									
From 28 Sept. 1691 to 1 Jan. 1691 47,916 10 3									
From thence to 1 April 1692 - 44,849 1 7½									
To 1 July 1692 - 21,488 6 11									
	114,253	18	9½						
Hereditary and Temporary Excise :—									
From 1 July to 28 Sept. 1692.	120,160	5	8						
				423,110	3	0½			
⅔ *Additional Excise* :—									
From 28 Sept. to 1 Jan. 1691 - 28,076 12 6									
From thence to 1 April 1692 - 61,690 18 6½									
To 1 July 1692 - 73,787 9 9½									
To 28 Sept. 1692 - 71,192 0 10¼									
	234,747	1	8¼						
⅓ *Additional Excise* :—									
From 28 Sept. to 1 Jan. 1691 - 14,038 5 8½									
To 1 April 1692 - 30,845 8 11									
To 1 July 1692 - 36,893 14 8									
To 28 Sept. 1692 - 35,596 0 4¾									
	117,373	9	8¼						
				352,120	11	4½			
21*d. and* 30*d. per Barrel* :—									
From 1 Jan. 1691 to 1 April 1692.	55,107	9	11½						
From thence to 1 July 1692	75,630	14	10						
To 28 Sept 1692 - -	83,590	10	8						
				214,328	15	5½			
Low Wines :—									
From 28 Sept. 1691 to 1 Jan. 1691.	2,899	3	4						
From thence to 1 April 1692	3,199	2	8						
To 1 July 1692 - -	4,398	13	0						
To 28 Sept. 1692 - -	3,519	0	6						
				14,015	19	6			
							1,203,091	6	8½
Letter Money .—									
From 28 Sept. 1691 to 1 Jan. 1691.	—			11,493	5	5			
From thence to 1 April 1692	—			29,700	0	0			
To 4 July 1692 - -	—			5,255	13	10			
							46,448	19	3
Transported -	—			—			2,201,708	18	1¾

for the Year ending the 29th of September 1692 —*continued.*

Fol. 6—*cont.*

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			268,133	15	9	3,381,279	1	10
Master of the Great Wardrobe :—									
From 1 Jan. to 1 April 1692.	3,000	0	0						
From thence to 1 July 1692.	6,000	0	0						
To 28 Sept. 1692 - -	14,943	2	0						
				23,943	2	0			
Master of the Horse :—									
From 28 Sept. 1691 to 1 Jan. 1691.	14,817	8	6						
From thence to 1 April 1692.	5,793	9	0						
To 1 July 1692 - -	5,206	11	0						
To 28 Sept. 1692 - -	10,276	16	6						
				36,094	5	0			
Master of the Robes :—									
From 28 Sept. 1691 to 1 Jan. 1691.	1,000	0	0						
From thence to 28 Sept. 1692.	2,500	0	0						
				3,500	0	0			
For the Mint; to Thomas Neale, Esq. :—									
From 28 Sept. 1691 to 1 Jan. 1691.	6,000	0	0						
To 1 April 1692 - -	2,000	0	0						
To 28 Sept. 1692 - -	4,146	12	9						
				12,146	12	9			
Rent paid :—									
From 28 Sept. 1691 to 1 Jan. 1691.	75	0	0						
From thence to 1 April 1692.	25	0	0						
To 1 July 1692 - -	150	0	0						
				250	0	0			
Band of Pensioners :—									
To William Smith - -	—			3,000	0	0			
Ambassadors, Envoys, &c. :—									
From 28 Sept. 1691 to 1 Jan. 1691.	3,241	10	0						
From thence to 1 April 1692.	15,353	7	8						
To 1 July 1692 - -	700	19	6						
To 28 Sept. 1692 - -	4,730	7	7						
				24,026	4	9			
Transported -	—			371,094	0	3	3,381,279	1	10

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 7.

AN ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			2,201,708	18	1¾
On Small Branches, viz.:—									
Seizures from 28 Sept. 1691 to 1 Jan. 1691.	2,421	16	0						
From thence to 1 April 1692.	621	4	0						
To 1 July 1692 - -	3,255	10	8½						
To 28 Sept. 1692 - -	2,084	17	4						
				8,383	8	0½			
Tenths.									
From 28 Sept. 1691 to 1 Jan. 1691.	3,629	18	9½						
From thence to 1 April 1692.	5,327	4	6½						
To 1 July 1692 - -	1,963	9	0						
To 28 Sept. 1692 - -	497	19	2						
				11,418	11	6			
First Fruits.									
From 28 Sept. 1691 to 1 Jan. 1691.	2,491	12	4½						
From thence to 1 April 1692.	1,000	0	0						
To 1 July 1692 - -	500	0	0						
To 28 Sept. 1692 - -	1,438	5	10						
				5,429	18	2½			
Alienations.									
From 28 Sept. 1691 to 1 Jan. 1691.	500	0	0						
From thence to 1 April 1692.	650	0	0						
To 28 Sept. 1692 - -	250	0	0						
				1,400	0	0			
Duchy of Cornwall - -	—			2,081	0	0			
Lotteries.									
From 28 Sept. to 1 Jan. 1691.	2,100	0	0						
From 1 April to 1 July 1692.	1,607	0	1						
To 28 Sept. 1692 - -	2,100	0	0						
				5,807	0	1			
Rent on Grants:—									
From 28 Sept. 1691 to 1 Jan. 1691.	12	10	0						
From thence to 1 April 1692.	1	10	0						
To 1 July 1692 - -	2	10	0						
				16	10	0			
Sheriffs of Cities:—									
From 28 Sept. 1691 to 1 Jan. 1691.	59	19	1½						
From thence to 1 April 1692	19	8	4						
To 1 July 1692 - -	24	3	11						
To 28 Sept. 1692 - -	3	0	8						
				106	12	0½			
Sheriffs of Counties:—									
From 28 Sept. 1691 to 1 Jan. 1691.	325	10	0						
From thence to 1 April 1692	80	8	8						
To 1 July 1692 - -	542	17	6						
To 28 Sept. 1692 - -	75	6	8						
				1,024	2	10			
Transported -	—			35,667	2	8½	2,201,708	11	1¾

for the Year ending the 29th of September 1692—*continued*.

Fol. 8.

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			3,381,279	1	10
Civil List transported	—			371,094	0	3			
For Law Suits—To Aaron Smith :—									
From 28 Sept. 1691 to 1 Jan. 1691.	1,000	0	0						
From thence to 1 April 1692.	800	0	0						
To 1 July 1692 - -	1,000	0	0						
To 28 Sept. 1692 - -	700	0	0						
				3,500	0	0			
Jewels and Plate :—									
From 1 Jan. 1691 to 1 April 1692.	7,502	18	1						
From thence to 1 July 1692.	1,742	8	11						
				9,245	7	0			
Gardens :—									
From 1 Jan. 1691 to 1 April 1692.	1,560	0	0						
From thence to 1 July 1692.	2,340	0	0						
To 28 Sept. 1692 - -	2,240	0	0						
				6,140	0	0			
Works :—									
From 28 Sept. to 1 Jan. 1691.	213	13	5						
From thence to 1 April 1692.	25,658	9	9½						
To 1 July 1692 - -	4,199	5	1						
To 28 Sept. 1692 - -	1,588	10	4						
				31,659	18	7½			
Prosecution of Clippers and Coiners.	—			727	2	9			
Rewards to Receivers :—									
From 28 Sept. 1691 to 1 Jan. 1691.	597	0	0						
From 1 April to 1 July 1692.	1,651	7	8						
To 28 Sept. 1692 - -	7,541	14	10½						
				9,790	2	6½			
Pensions :—									
From 28 Sept. to 1 Jan. 1691.	11,281	11	4½						
From thence to 1 April 1692.	20,049	19	5½						
To 1 July 1692 - -	11,142	16	3½						
To 28 Sept. 1692 - -	6,552	0	0						
				49,026	7	1½			
Free Gifts :—									
From 28 Sept. to 1 Jan. 1691.	5,473	2	2¾						
From thence to 1 April 1692.	7,814	2	5½						
To 1 July 1692 - -	15,153	9	3¾						
To 28 Sept. 1692 - -	4,618	0	0						
				33,058	14	0			
Transported -	—			514,241	12	3½	3,381,279	1	10

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 7—*cont.*

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	35,667 2 8½	2,201,708 18 1¾
Lands seized:—			
From 28 Sept. 1691 to 1 Jan. 1691 - - -	0 13 4		
From 1 July to 28 Sept. 1692.	646 15 11½	647 9 3½	
Transported -	—	36,314 12 0	2,201,708 18 1¾

Fol. 9.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	2,201,708 18 1¾
Small Branches transported	—	36,314 12 0	
Rent on Land:—			
From 28 Sept. to 1 Jan. 1691.	2 10 0		
From 1 July to 28 Sept. 1692.	3 18 4½	6 8 4½	
Fines on Leases:—			
From 28 Sept. to 1 Jan. 1691.	0 10 4		
From thence to 1 April 1692	223 0 0		
To 1 July 1692 - -	304 12 6		
To 28 Sept. 1692 -	52 14 0	580 16 10	
Sale of Farthings:—			
From 28 Sept. to 1 Jan. 1691.	4,600 0 0		
From thence to 1 April 1692	1,300 0 0		
To 1 July 1692 - -	1,300 0 0		
To 28 Sept. 1692 - -	1,200 0 0	8,400 0 0	
Wrecks:—			
From 28 Sept. to 1 Jan. 1691.	500 0 0		
From 1 April to 1 July 1692	450 0 0		
To 28 Sept. 1692 - -	450 0 0	1,400 0 0	
Receivers General:—			
From 28 Sept. to 1 Jan. 1691.	200 0 0		
From 1 April to 1 July 1692	221 14 7		
To 28 Sept. 1692 -	200 0 0	621 14 7	
Imprest Money repaid -	—	2,924 6 4	
King's Dividend of the African Company.	—	53 15 0	
Dividend of the East India Company.	—	7,000 0 0	
Mr. Sandcroft's Fine -	—	200 0 0	
Rep[ai]d by the Dean and Chapter of Winchester.	—	720 0 0	
Transported -	—	58,221 13 1⅓	

for the Year ending the 29th of September 1692—*continued.*

Fol. 8—*cont.*

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			514,241	12	3½	3,381,279	1	10
Salaries:—									
From 28 Sept. to 1 Jan. 1691.	10,840	10	9						
From thence to 1 April 1692.	41,259	2	1						
To 1 July 1692 - -	12,877	8	10½						
To 28 Sept. 1692 - -	19,175	1	10¾						
				84,152	3	7¼			
Transported -	—			598,393	15	10¾	3,381,279	1	10

Fol. 10.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			3,381,279	1	10
Civil List transported	—			598,393	15	10¾			
King's Share of Condemned Tobacco Stalks:—									
From 1 April to 1 July 1692.	358	9	10½						
From thence to 28 Sept. 1692.	175	12	7½						
				534	2	6			
Redemption of Captives -	—			500	0	0			
Allowances to Farmers of Post-Fines.	—			6,427	1	4½			
Mrs. Mary Whitton, for Swords.	—			50		0			
Interest of money borrowed -	—			196,680	10	7			
							802,585	10	4¼
Transported -	—			—			4,183,864	12	2¼

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 9—*cont.*

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			58,221	13	1½	2,201,708	18	1¾
Temporalities:—									
From 28 Sept. to 1 Jan. 1691.	712	10	0½						
From thence to 1 April 1692.	400	0	0						
To 1 July 1692 - -	260	17	6						
To 28 Sept. 1692 - -	400	0	0						
				1,773	7	6½			
12d. per Chaldron on Sea Coals.	—			1	6	8			
Barbados Revenue - -	—			500	0	0			
King's Bench Fines - -	—			20	0	0			
Rent of Bombay - - -	—			10	0	0			
Hanaper - - - -	—			37	4	7			
Sale of Wood - - -	—			420	0	0			
Lighthouses - - -	—			6	13	4			
Post Fines - - - -	—			6,427	1	4½			
Sale of Land - - -	—			791	0	0			
Baronets - - - -	—			1,095	0	0			
Chra. Howard, on Graham's Account.	—			600	0	0			
							69,903	6	7½
Transported -	—			—			2,271,612	4	9¼

Fol. 11.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			2,271,612	4	9¼
On Arrears of Hearth Money and Taxes.									
Hearth Money:—									
From 28 Sept. to 1 Jan. 1691.	55	10	0						
From thence to 1 April 1692	3,500	0	0						
				3,555	10	0			
Present Aid - - -	—			142	4	11			
First Poll:—									
From 28 Sept. to 1 Jan. 1691	187	13	5						
From thence to 1 April 1692	200	6	0						
To 1 July 1692 - -	206	19	1						
To 28 Sept. 1692 - -	475	2	0						
				1,070	0	6			
Review and Additional Poll:—									
From 28 Sept. to 1 Jan. 1691.	476	19	2						
From thence to 1 April 1692	250	0	0						
To 1 July 1692 - -	305	6	7						
To 28 Sept. 1692 - -	65	1	0						
				1,097	6	9			
First 12d. Aid:—									
From 28 Sept. to 1 Jan. 1691	266	13	0½						
From 1 April to 1 July 1692	249	8	11						
To 28 Sept. 1692 - -	83	1	0						
				599	2	11½			
Transported -	—			6,464	5	1½	2,271,612	4	9¼

for the Year ending the 29th of September 1692—*continued*.

Fol. 10—*cont.*

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		4,183,864	12	2¼

Fol. 12.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		4,183,864	12	2¼

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 11—*cont.*

An ACCOUNT of so much of the NEAT PRODUCE of the REVENUE, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -				6,464	5	1½	2,271,612	4	9¼
Second Poll :—									
From 28 Sept. to 1 Jan. 1691.	1,806	5	3						
From thence to 1 July 1692	1,831	4	2						
To 28 Sept. 1692 - -	12	0	0						
				3,649	9	5			
2/- *Aid :—*									
From 28 Sept. to 1 Jan. 1691.	8,890	17	9						
From thence to 1 April 1692.	3,444	14	8½						
To 1 July 1692 - -	1,856	18	7						
To 28 Sept. 1692 - -	60	10	10						
				14,253	1	10½			
Additional Aid :—									
From 28 Sept. to 1 Jan. 1691.	4,445	9	0						
From thence to 1 April 1692.	1,722	7	3						
To 1 July 1692 - -	928	9	1½						
To 28 Sept. 1692 - -	30	6	0						
				7,126	11	4½			
First 12 *months Aid :—*									
From 28 Sept. to 1 Jan. 1691.	425,363	5	10						
From thence to 1 April 1692.	363,675	3	4½						
To 1 July 1692 - -	66,041	19	4½						
To 28 Sept. 1692 - -	2,514	16	4						
				857,595	4	11			
Second 12 *months Aid :—*									
From 1 Jan. 1691 to 1 April 1692.	29,045	0	0						
From thence to 1 July 1692.	366,768	1	8						
To 28 Sept. 1692 - -	364,613	12	11½						
				760,426	14	7½			
Transported -	—			1,649,515	7	4	2,271,612	4	9¼

Fol. 13.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			2,271,612	4	9¼
Hearth Money and Taxes	Transported -			1,649,515	7	4			
First Quarterly Poll :—									
From 1 April to 1 July 1692.	115,344	8	1½						
From thence to 28 Sept. 1692.	21,149	5	6						
				136,493	13	7½			
Second Quarterly Poll -	—			114,063	8	5			
							1,900,072	9	4½
Received by Loans more than repaid.	—			—			204,044	3	8½
							4,375,728	17	10¼

for the Year ending the 29th of September 1692—*continued.*

Fol. 12—*cont.*

An ACCOUNT of what has been issued out of the EXCHEQUER, &c.—*cont.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		4,183,864	12	2¼

Fol. 14.

	£	s.	d	£	s.	d.	£	s.	d.
Transported -		—			—		4,183,864	12	2¼
Remaining in Cash 28 Sept. 1692.		—			—		191,864	5	8
							4,375,728	17	10¼

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 15.

The ACCOUNTS of the CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692. } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
To the Remains in Cash, 29 Sept. 1691.	—			—			13,315	3	11¼
To Receipts since to 29 Sept. 1692, viz.:—									
At the Port of London:—									
From 29 Sept. to 2 Jan. 1691	137,189	6	1¾						
From thence to 2 April 1692	73,858	10	0						
To 2 July 1692	130,032	19	10						
To 29 Sept. 1692	173,933	1	1½						
				515,013	17	1¼			
At the Outports:—									
From 29 Sept. to 2 Jan. 1691	28,265	2	6¾						
From thence to 2 April 1692	16,748	10	10						
To 2 July 1692	10,891	2	10¾						
To 29 Sept. 1692	24,596	8	1¾						
				80,501	4	5¼			
On Bonds:—									
From 29 Sept. to 2 Jan. 1691	12,122	2	10						
From thence to 2 April 1692	7,577	12	0						
To 2 July 1692	7,082	13	11						
To 29 Sept. 1692	13,510	3	1½						
				40,292	11	10½			
Plantation Goods:—									
From 2 Jan. 1691 to 2 April 1692	—			36	4	2			
Coinage:—									
From 2 April to 2 July 1692	4,273	1	1						
From thence to 29 Sept. 1692	730	10	2½						
				5,003	11	3½			
							640,847	8	10½
Transported	—			—			654,162	12	9¾

for the Year ending the 29th of September 1692—*continued*.

Fol. 16.

The ACCOUNT of CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692. } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
By Payments into the Exchequer, viz.:—									
Of Customs:—									
From 29 Sept. to 2 Jan. 1691	141,953	19	5						
From thence to 2 April 1692	67,682	5	7¼						
To 2 July 1692 - - -	93,100	2	0¼						
To 28 Sept. 1692 - - -	146,643	14	8½						
				449,390	1	9¼			
Of Coinage:—									
From 29 Sept. to 2 Jan. 1691	4,140	3	4½						
From thence to 29 Sept. 1692	700	0	0						
				4,840	3	4½			
							454,230	5	1¾
By Debentures, Portages, and Allowances, viz.:—									
On Customs from 29 Sept. to 2 Jan. 1691.	24,625	18	6½						
From thence to 2 April 1692	25,601	5	6½						
To 2 July 1692 - - -	26,506	3	6½						
To 29 Sept. 1692 - -	24,683	11	7						
Coinage Debentures to 2 July 1692.	74	2	9						
To 29 Sept. 1692 - - -	6	7	6½						
				101,497	9	6			
By Tidesmen, Watchmen, and Porters, viz.:—									
From 29 Sept. to 2 Jan. 1691 -	4,609	12	4						
From thence to 2 April 1692 -	4,373	7	11						
To 2 July 1692 -	4,927	4	10						
To 29 Sept. 1692	4,144	12	8						
	18,054	17	9						
By Salaries and Incidents, viz.:—									
From 29 Sept. to 2 Jan. 1691 -	8,214	2	5						
From thence to 2 April 1692 -	7,781	5	11						
To 2 July 1692	9,667	17	5						
To 29 Sept. 1692	6,485	18	2						
	32,149	3	11						
				50,204	1	8			
							151,701	11	2
By Payments to Secretaries of State:—									
From 29 Sept. to 2 Jan. 1691	925	0	0						
From thence to 2 April 1692	925	0	0						
To 2 July 1692 - - -	925	0	0						
				2,775	0	0			
By Pensions, viz.:—									
Amias and Juliana Hext:—									
From 29 Sept. to 2 Jan. 1691	50	0	0						
From thence to 2 April 1692	50	0	0						
To 2 July 1692 - - -	50	0	0						
				150	0	0			
Transported -	—			2,925	0	0	605,931	16	3¾

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 15—*cont.*

The ACCOUNTS of the CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692—*cont.* } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		654,162	12	9¾

Fol. 17.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		654,162	12	9¾

for the Year ending the 29th of September 1692—*continued.*

Fol. 16—*cont.*

The ACCOUNT of CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692—*cont.* } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			605,931	16	3¾
Pensions transported -	—			2,925	0	0			
Samuel Clark:—									
From 29 Sept. to 2 Jan. 1691	75	0	0						
From thence to 2 April 1692	75	0	0						
To 2 July 1692 - - -	75	0	0						
				225	0	0			
George Tuthill:—									
From 29 Sept. to 2 Jan. 1691	25	0	0						
From 2 April to 2 July 1692	25	0	0						
				50	0	0			
Thomas Fairfax:—									
From 29 Sept. to 2 Jan. 1691	—			300	0	0			
Transported -	—			3,500	0	0	605,931	16	3¾

Fol. 18.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			605,931	16	3¾
Pensions, &c. transported	—			3,500	0	0			
Thomas Baker, Consul at Algiers:—									
From 29 Sept. to 2 Jan. 1691	150	0	0						
From thence to 2 April 1692	226	2	6						
To 2 July 1692 - -	150	0	0						
To 29 Sept. 1692 - - -	150	0	0						
				676	2	6			
Nathaniel Lodington, Consul at Tripoli:—									
From 29 Sept. to 2 Jan. 1691	95	0	0						
From thence to 2 April 1692	95	0	0						
To 2 July 1692 - - -	95	0	0						
To 29 Sept. 1692 - -	95	0	0						
				380	0	0			
Bishop of Sarum:—									
From 29 Sept. to 2 Jan. 1691	285	2	6						
From 2 April to 2 July 1692	285	2	6						
				570	5	0			
The four Ushers of the Exchequer, to 2 Jan. 1691.	—			33	12	0			
Officers of the Pipe, in the said time.	—			80	12	4			
Commissioners of the Privy Seal:—									
From 29 Sept. to 2 Jan. 1691	24	13	4						
From thence to 2 April 1692	159	6	8						
To 2 July 1692 - - -	66	0	0						
				250	0	0			
By Repayment of Loan to the Executors of Mr. Thomas Fox, from 2 July to 29 Sept. 1692.	—			20,000	0	0			
Interest thereof to 2 Jan. 1691	295	17	8						
From thence to 2 April 1692	295	17	8						
To 2 July 1692 - - -	295	17	8						
To 29 Sept. 1692 - - -	300	0	0						
				1,187	13	0			
Transported -	—			26,678	4	10	605,931	16	3¾

HOUSE OF LORDS MSS.
1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 17—*cont.*

The ACCOUNTS of the CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692—*cont.* } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -		—			—		654,162	12	9¾

Fol. 19.

The ACCOUNT of the NEW IMPOSITIONS from Michaelmas 1691 to Michaelmas 1692. } Dr.

To *Receipts* from Michaelmas 1691 to Michaelmas 1692, viz.:—	£	s.	d.	£	s.	d.	£	s.	d.
Of East India Goods:—									
From Michaelmas 1691 to 2 Jan. 1691.	44,156	5	0						
From thence to 2 April 1692	10,718	9	8						
To 2 July 1692 - - -	51,496	2	4¾						
To 29 Sept. 1692 - - -	41,266	12	11½						
				147,637	10	0¼			
Wine and Vinegar:—									
From Michaelmas 1691 to 2 Jan. 1691.	12,015	15	8¾						
From thence to 2 April 1692 -	30,830	6	2½						
To 2 July 1692 - - -	59,392	3	10¾						
To 29 Sept. 1692 - - -	35,829	8	8½						
				138,067	14	6¼			
Transported -		—		285,705	4	6½			

for the Year ending the 29th of September 1692—*continued*.

Fol. 18—*cont.*

The ACCOUNT of CUSTOMS and COINAGE from 29 Sept. 1691 to 29 Sept. 1692—*cont.* } Cr.

	£ s. d.	£ s. d.	£ s. d.
Transported -	—	—	605,931 16 3¾
Pensions, &c. transported	—	26,678 4 10	
Master of the Horse :—			
From 29 Sept. to 2 Jan. 1691	4,000 0 0		
From thence to 2 April 1692	2,200 0 0		
To 2 July 1692 - - -	2,800 0 0		
To 29 Sept. 1692 - - -	2,400 0 0		
		11,400 0 0	
Corporation of Berwick :—			
From 29 Sept. 1691 to 2 April 1692.	100 0 0		
From thence to 2 July 1692	100 0 0		
		200 0 0	
Corporation of Lyme :—			
From 29 Sept. 1691 to 2 April 1692.	50 0 0		
To 29 Sept. 1692 - - -	50 0 0		
		100 0 0	
Simon Smith, Otter-hunter, for one year to 29 Sept. 1692 -	—	28 1 2	
Henry Ayloff, King's Remembrancer.	—	424 1 8	
Thomas Hide - - - -	—	37 10 0	
John Ady and Hen. Ballow, Deputy Chamberlains of the Exchequer.	—	40 1 0	
			38,907 18 8
			644,839 14 11¾
29 Sept. 1692. Remains to Balance on Customs.	—	9,240 0 2½	
Ditto on Coinage - -	—	82 17 7½	
			9,322 17 10
			654,162 12 9¾

Fol. 20.

The ACCOUNT of the NEW IMPOSITIONS from Michaelmas 1691 to Michaelmas 1692. } Cr.

By Payments into the Exchequer, viz. :—	£ s. d.	£ s. d.	£ s. d.
Of East India Goods :—			
From Michaelmas 1691 to 2 Jan. 1691.	44,156 5 0		
From thence to 2 April 1692	10,718 9 8		
To 2 July 1692 - - -	51,496 2 4¾		
To 29 Sept. 1692 - - -	41,266 12 11½		
		147,637 10 0¼	
Wine and Vinegar :—			
From Michaelmas 1691 to 2 Jan. 1691.	10,413 5 10¾		
From thence to 2 April 1692	30,084 10 1¼		
To 2 July 1692 - - -	57,407 14 4¾		
To 29 Sept. 1692 - - -	33,070 0 8½		
		130,975 11 1¼	
Transported -	—	278,613 1 1½	

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 19—*cont.*

The ACCOUNT of the NEW IMPOSITIONS from Michaelmas 1691 to Michaelmas 1692—*cont.* } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			285,705	4	6½			
Tobacco and Sugar :—									
From Michaelmas 1691 to 2 Jan. 1691.	55,283	7	5¼						
From thence to 2 April 1692 -	42,051	14	0½						
To 2 July 1692 - - -	22,542	5	5¼						
To 29 Sept. 1692 - - -	59,469	4	4½						
				179,346	11	3½			
							465,051	15	10

Fol. 21.

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692. } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
To the Remains in Cash, 28 Sept. 1691.	—			—			37,485	5	0
To Receipts since to 28 Sept. 1692, viz. :—									
Of Hereditary and ¼ Temporary :—									
To 2 Jan. 1691 - - 76,086 5 2									
To 2 April 1692 - - 74,193 11 2									
To 21 May 1692 - - 95,532 12 1¼									
	245,812	8	5¼						
¾ *Temporary Excise* :—									
To 2 Jan. 1691 - - 45,651 15 3¼									
To 2 April 1692 - - 44,516 2 11¾									
To 21 May 1692 - - 22,760 12 3¾									
	112,928	10	6¾						
Hereditary and Temporary Ex[cise] :—									
From 21 May to 28 Sept. 1692	116,049	15	3½						
				474,790	14	3½			

for the Year ending the 29th of September 1692—*continued.*

Fol. 20—*cont.*

The ACCOUNT of the NEW IMPOSITIONS from Michaelmas 1691 to Michaelmas 1692—*cont.* } Cr.

	£	s.	d.	£	s.	d.	£	s	d.
Transported -		—		278,613	1	1½			
Tobacco and Sugar :—									
From Michaelmas 1691 to 2 Jan. 1691.	50,937	16	5¾						
From thence to 2 April 1692	35,975	6	8½						
To 2 July 1692 - - -	19,204	18	1¼						
To 29 Sept. 1692 - - -	53,468	16	1½						
				159,586	17	5			
Debentures, &c. :—							438,199	18	6½
From Michaelmas 1691 to 2 Jan. 1691.		—		5,948	0	9½			
From thence to 2 April 1692		—		6,822	3	5			
To 2 July 1692 - - -		—		5,321	16	10			
To 29 Sept. 1692 - - -		—		8,759	16	3			
							26,851	17	3½
							465,051	15	10

Memorandum.—

The Debentures for East India Goods are comprehended, as usual, in the Debentures of the Customs in general, because the Act of Parliament which first gave them, appointed the total produce thereof to be paid into the Exchequer.

Fol. 22.

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692. } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
By Payments into the Exchequer :—									
Of Hereditary and ¼ Temporary Excise :—									
To 2 Jan. 1691	26,000	0	0						
To 2 April 1692 -	26,256	3	11½						
To 21 May 1692 -	35,032	8	3						
				87,288	12	2½			
¾ *Temporary Excise :—*									
From 28 Sept. to 2 Jan. 1691 -	47,916	10	3						
To 2 April 1692 -	44,849	1	7½						
To 21 May 1692 -	22,488	6	11						
				115,253	18	9½			
Hereditary and Temporary Excise :—									
From 21 May to 28 Sept. 1692.	50,410	5	8						
				252,952	16	8			
Additional Excise :—									
From 28 Sept. to 2 Jan. 1691	42,114	18	2½						
To 2 April 1692 - - -	92,536	7	5½						
To 2 July 1692 - - -	110,681	4	5½						
To 28 Sept. 1692 - -	106,788	1	3						
				352,120	11	4½			
Transported -		—		605,073	8	0½			

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 21—*cont.*

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692—*cont.* } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			474,790	14	3½			
Additional Excise:—									
From 28 Sept. to 2 Jan. 1691	43,207	1	7						
From thence to 2 April 1692	95,223	12	7						
To 2 July 1692 - - -	113,845	14	9¾						
To 28 Sept. 1692 - - -	104,457	17	2¾						
				356,734	6	2½			
Double 21*d.* *and* 30*d.*:—									
From 28 Sept. to 2 Jan. 1691	1,540	14	9¼						
From thence to 2 April 1692	50,786	11	5¼						
To 2 July 1692 - - -	77,642	16	5½						
To 28 Sept. 1692 - - -	84,719	15	0¼						
				214,689	17	8¼			
Arrears of the last Year's Double Excise:—									
From 28 Sept. to 2 Jan. 1691	153,330	5	1¼						
From thence to 2 April 1692	47,866	12	7						
To 2 July 1692 - - -	1,134	2	11½						
To 28 Sept. 1692 - - -	310	10	11½						
				202,641	11	7¼			
Low Wines:—									
From 28 Sept. to 2 Jan. 1691	2,900	0	0						
From thence to 2 April 1692	4,400	0	0						
To 2 July 1692 - - -	3,200	0	0						
To 28 Sept. 1692 - - -	3,520	1	4						
				14,020	1	4			
							1,262,876	11	1½
Transported -	—			—			1,300,361	16	1½

Fol. 23.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			1,300,361	16	1½

for the Year ending the 29th of September 1692—*continued.*

Fol. 22—*cont.*

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692—*cont.* } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			605,073	8	0½			
Double 21d. and 30d.:—									
From 28 Sept. to 2 Jan. 1691	150,204	10	10						
From thence to 2 April 1692	102,974	2	6½						
To 2 July 1692 - - -	76,764	17	9½						
To 28 Sept. 1692 - -	83,901	1	7½						
				413,844	12	9½			
Low Wines:—									
From 28 Sept. to 2 Jan. 1691	2,899	3	4						
From thence to 2 April 1692	3,199	2	8						
To 2 July 1692 - - -	4,398	13	0						
To 28 Sept. 1692 - -	3,519	0	6						
				14,015	19	6			
							1,032,934	0	4
By Pensions:—									
Queen Dowager:—									
From 28 Sept. to 2 Jan. 1691	3,052	8	9½						
From thence to 2 April 1692	3,052	8	9½						
To 2 July 1692 - - -	3,052	8	9½						
To 28 Sept. 1692 - -	3,052	8	9½						
				12,209	15	2			
Prince and Princess of Denmark:—									
From 28 Sept. to 2 Jan. 1691	12,500	0	0						
From thence to 2 April 1692	12,500	0	0						
To 2 July 1692 - - -	10,000	0	0						
To 28 Sept. 1692 - -	13,000	0	0						
				48,000	0	0			
Duke of Northumberland:—									
From 28 Sept. to 2 Jan. 1691	200	0	0						
From thence to 2 April 1692	300	0	0						
To 2 July 1692 - - -	1,300	0	0						
To 28 Sept. 1692 - -	1,300	0	0						
				3,100	0	0			
Transported -	—			63,309	15	2	1,032,934	0	4

Fol. 24.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			1,032,934	0	4
Pensions transported -	—			63,309	15	2			
Duke of Southampton:—									
From 28 Sept. to 2 Jan. 1691	475	0	0						
To 2 April 1692 - - -	150	0	0						
To 2 July 1692 - - -	650	0	0						
To 28 Sept. 1692 - -	650	0	0						
				1,925	0	0			
Duchess of Richmond:—									
From 28 Sept. to 2 Jan. 1691	110	0	0						
From thence to 2 April 1692	120	0	0						
To 2 July 1692 - - -	520	0	0						
To 28 Sept. 1692 - -	360	0	0						
				1,110	0	0			
Transported -	—			66,344	15	2	1,032,934	0	4

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 23—*cont.*

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692—*cont.* } Dr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			1,300,361	16	1½

for the Year ending the 29th of September 1692—*continued.*

Fol. 24—*cont.*

The ACCOUNT of the EXCISE from 28 Sept. 1691 to 28 Sept. 1692—*cont.* } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			1,032,934	0	4
Pensions transported -	—			66,344	15	2			
Duke of Grafton :—									
From 28 Sept. to 2 Jan. 1691	500	0	0						
From thence to 2 April 1692	500	0	0						
To 2 July 1692 - - -	500	0	0						
To 28 Sept. 1692 - -	500	0	0						
				2,000	0	0			
Duchess of Grafton :—									
From 28 Sept. to 2 Jan. 1691	250	0	0						
From thence to 2 April 1692	250	0	0						
To 2 July 1692 - - -	250	0	0						
To 28 Sept. 1692 - -	250	0	0						
				1,000	0	0			
Duchess of Buccleuch : -									
To 2 April 1692 - - -	300	0	0						
From thence to 2 July 1692	1,300	0	0						
To 28 Sept. 1692 - -	1,300	0	0						
				2,900	0	0			
Bailiffs of Yarmouth : one Year's allowance.	—			160	0	0			
							72,404	15	2
By Repayment of Loan and Interest, viz. :—									
Principal :—									
From 28 Sept. to 2 Jan. 1691	30,000	0	0						
From thence to 2 April 1692	25,000	0	0						
To 2 July 1692 - - -	31,500	0	0						
To 28 Sept. 1692 - -	38,500	0	0						
				125,000	0	0			
Interest :—									
From 28 Sept. to 2 Jan. 1691	1,178	16	5						
From thence to 2 April 1692	971	18	$2\frac{1}{4}$						
To 2 July 1692 - - -	1,404	3	$0\frac{1}{2}$						
To 28 Sept. 1692 - -	951	4	1						
				4,506	1	$8\frac{3}{4}$			
							129,506	1	$8\frac{3}{4}$
By the Victuallers of the Navy; paid them out of Double Excise :—	—			—			15,000	0	0
By Salaries and Incidents to 2 Jan. 1691.	—			6,978	4	11			
From thence to 2 April 1692	—			5,852	19	$7\frac{1}{2}$			
To 2 July 1692 - - -	—			6,904	1	11			
To 28 Sept. 1692 - -	—			6,590	5	7			
							26,325	12	$0\frac{1}{2}$
							1,276,170	9	$3\frac{1}{4}$
By Balance remaining 28 Sept. 1692 :—									
Hereditary and Temporary Excise.	—			9,263	0	$10\frac{1}{4}$			
Additional 9*d.* and Double 9*d.*	—			7,237	19	1			
Double 21*d.* and 30*d.* -	—			7,684	17	9			
Low Wines - -	—			5	9	2			
							24,191	6	$10\frac{1}{4}$
							1,300,361	16	$1\frac{1}{2}$

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 25.

The ACCOUNT of the POST OFFICE from 29 Sept. 1691 to 3 Oct. 1692. } Dr.

	£	s.	d.	£	s.	d.
To Receipts, viz.:—						
From 29 Sept. 1691 to 4 Jan. 1691 - -	20,478	16	5			
From thence to 4 April 1692 - - -	19,196	2	11			
From 4 April to 4 July 1692 - - -	21,654	3	8			
And to 3 Oct. 1692 - - - -	19,189	13	9			
				80,518	16	9

for the Year ending the 29th of September 1692—*continued.*

Fol. 26.

The ACCOUNT of the POST OFFICE from 29 Sept. 1691 to 3 Oct. 1692. } Cr.

	£ s. d.	£ s. d.	£ s. d.
By Payments into the Exchequer, viz.:—			
From 29 Sept. to 4 Jan. 1691	—	10,241 15 3	
From thence to 4 April 1692	—	6,800 0 0	
To 4 July 1692 - -	—	2,855 13 10	
			19,897 9 1
By Pensions, viz.:—			
Duchess of Cleveland:—			
From 29 Sept. to 4 Jan. 1691	700 0 0		
From thence to 4 April 1692	1,300 0 0		
To 4 July 1692 - - -	700 0 0		
		2,700 0 0	
Marquess of Carmarthen:—			
From 29 Sept. to 4 Jan. 1691	875 0 0		
From thence to 4 April 1692	875 0 0		
To 4 July 1692 - - -	875 0 0		
To 3 Oct. 1692 - - -	875 0 0		
		3,500 0 0	
Earl of Rochester:—			
From 29 Sept. to 4 Jan. 1691	1,400 0 0		
From thence to 4 April 1692	1,300 0 0		
To 4 July 1692 - - -	700 0 0		
		3,400 0 0	
Earl of Bath:—			
From 29 Sept. to 4 Jan. 1691	625 0 0		
From thence to 4 April 1692	625 0 0		
To 4 July 1692 - - -	625 0 0		
		1,875 0 0	
William Dockwra:—			
From 29 Sept. to 4 Jan. 1691	125 0 0		
From thence to 4 April 1692	125 0 0		
To 4 July 1692 - - -	125 0 0		
		375 0 0	
			11,850 0 0
Spanish Ambassador: paid short.	—	—	486 6 9
By the Works, paid Thomas Lloyd:—			
From 4 Jan. 1691 to 4 April 1692.	—	1,600 0 0	
From thence to 4 July 1692 -	—	10,400 0 0	
To 3 Oct. 1692 - - -	—	10,400 0 0	
			22,400 0 0
By Secret Service, to Henry Guy, Esq.:—			
From 4 April to 4 July 1692	—	300 0 0	
From thence to 3 Oct. 1692 -	—	1,700 0 0	
			2,000 0 0
Packet Boats:—			
From 29 Sept. to 4 Jan. 1691	3,507 17 3		
From thence to 4 April 1692	3,670 12 6		
To 4 July 1692 - - -	2,601 0 5		
To 3 Oct. 1692 - - -	2,756 3 6		
		12,535 13 8	
Transported -	—	12,535 13 8	56,633 15 10

HOUSE OF LORDS MSS.
1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 25—*cont.*

The ACCOUNT of the POST OFFICE from 29 Sept. 1691 to 3 Oct. 1692. } Dr.

	£	s.	d.	£	s.	d.
Transported -	—			80,518	16	9

Fol. 27.

Receipts. { A GENERAL ACCOUNT made up from the foregoing Receipt, and stating

	£	s.	d.	£	s.	d.	£	s.	d.
Cash remaining at Michaelmas 1691, viz.:—									
At the Exchequer -	63,182	5	4½						
At the Custom House	13,315	3	11¼						
At the Excise Office -	37,485	5	0						
				113,982	14	3½			
Charged on Sir Robt. Howard to Michaelmas 1691, which he allowed not till the week after, viz.:—									
At the Custom House	10,841	8	5½						
And for New Impositions.	3,152	6	1½						
At the Post Office -	1,751	10	2						
				15,745	4	9			
							129,727	19	0½
Receipts from 29 Sept. 1691 to 29 Sept. 1692, viz.:—									
On Customs - -	640,847	8	10½						
New Impositions -	465,051	15	10						
Excise - - -	1,262,876	11	1½						
At the Post Office -	80,518	16	9						
On 4½ per cent. - -	2,420	0	0						
On small Branches -	69,903	6	7½						
Arrear of Hearth Money, Old Taxes, the second 12 months Aid and Quarterly Poll.	1,900,072	9	4½						
				4,421,690	8	7			
By the Account of Loans drawn up according to Sir Robert Howard's certificates; received more than paid.	204,044	3	8½						

for the Year ending the 29th of September 1692—*continued.*

Fol. 26—*cont.*

The ACCOUNT of the POST OFFICE from 29 Sept. 1691 to 3 Oct. 1692. } Cr.

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			12,535	13	8	56,633	15	10
Salaries and Incidents:—									
From 29 Sept. to 4 Jan. 1691	2,408	8	8						
From thence to 4 April 1692	2,872	2	1						
To 4 July 1692 - - -	2,508	15	8						
To 3 Oct. 1692 - -	2,392	18	5						
				10,182	4	10			
							22,717	18	6
							79,351	14	4
By Balance remaining, 3 Oct. 1692.	—			1,167		1			
By a former mistake - -	—					4			
							1,167	2	
							80,518	16	9

Fol. 28.

ACCOUNTS, reducing the GROSS to a NEAT the ISSUES thereof. } *Payments.*

	£	s.	d.	£	s.	d.	£	s.	d.
Payments:—									
The Right Hon. Edw. Russell, Esq., for the Navy.	1,232,424	0	7						
The Victuallers of the Navy at the Excise Office.	15,000	0	0						
				1,247,424	0	7			
The Right Hon. Charles Bertie, Esq., for the Ordnance.	—			252,912	5	4			
The Right Hon. Earl of Ranelagh, for the Army.	1,084,983	3	11						
Mr. Fox and Lord Coningesby, the same.	810,959	12	0						
				1,895,942	15	11			
							3,396,279	1	10
Civil List:—									
The Earl of Belmont, Treasurer to Her Majesty.	—			61,500	0	0			
Privy Purse - - -	—			27,500	0	0			
Secret Service, to Mr. Guy	30,101	0	9¼						
To Lord Sydney - -	500	0	0						
To Sir Stephen Evance	12,000	0	0						
				42,601	0	9¼			
The Cofferer - - -	—			103,599	19	11			
Treasurer of the Chamber	—			32,932	15	0¾			
Great Wardrobe - -	—			23,943	2	0			
Master of the Horse at the Exchequer - - -	36,094	5	0						
At the Custom House -	11,400	0	0						
				47,494	5	0			
Master of the Robes -	—			3,500	0	0			
Thomas Neale, Esq., for the Mint.	—			12,146	12	9			
Transported -				355,217	15	6	3,396,279	1	10

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 27—*cont.*

Receipts. { A GENERAL ACCOUNT made up from the foregoing Receipt, and stating

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	204,044	3	8½	4,421,690	8	7	129,727	19	0½
More for what appears by certificate from the Excise was unpaid at Michaelmas 1692, though in the said account of loans it is allowed as paid, and therefore the true balance of that account is more than the last preceding article -	99,500	0	0						
				303,544	3	8½			
More allowed Sir Robert Howard as *per contra* in the payment of pensions which were not paid off by Michaelmas 1692, viz.: —									
Duke of Northumberland.	100	0	0						
Duke of Southampton	50	0	0						
Duchess of Buccleuch	1,100	0	0						
				1,250	0	0			
							4,726,484	12	3½
							4,856,212	11	4
Out of which Deduct for									
Debentures, Tidesmen, Salaries, &c., at the Custom House.	—			151,701	11	2			
Debentures and Allowances on New Impositions.	—			26,851	17	3½			
Salaries and Incidents at the Excise.	—			26,325	12	0½			
Salaries, Incidents, and Packet-boats at the Post Office, including 486*l.* 6*s.* 9*d.* paid short by the Spanish Ambassador.	—			23,204	5	3			
							228,083	5	9
To the Neat Money to be accounted for this year ending the 29th Sept. 1692, is - - -	—			—			4,628,129	5	7
Besides what Sir Robert Howard owneth more than he is charged with—									
On Customs - -	—			3,641	13	8¼			
New Impositions -	—			368	19	5			
							4,010	13	1¼
							4,632,139	18	8¼

for the Year ending the 29th of September 1692—*continued.*

Fol. 28—*cont.*

ACCOUNTS, reducing the GROSS to a NEAT the ISSUES thereof. } *Payments.*

	£	s.	d.	£	s.	d.	£	s.	d.
Transported -	—			—			3,396,279	1	10
Civil List transported	—			355,217	15	6	—		
Rent paid - - -	—			250	0	0			
Band of Pensioners - -				3,000	0	0			
Ambassadors' Envoys: Consuls, &c., at the Exchequer - - -	24,026	4	9						
At the Custom House -	1,056	2	6						
				25,082	7	3			
Law Suits - - -	—			3,500	0	0			
Jewels and Plate - -	—			9,245	7	0			
Gardens - - - -	—			6,140	0	0			
Works, besides £2,400 for which Tallies were given on the Post Office, but not paid by Michaelmas 1692 -	—			29,259	18	7½			
Allowances to the Farmers of Post Fines -	—			6,427	1	4½			
Prosecuting Clippers and Coiners.	—			727	2	9			
Rewards to Receivers -	—			9,790	2	6½			
Free Gifts - -	—			33,058	14	0			
Mrs. Mary Whitton, for Swords.	—			50	0	0			
Redemption of Captives -	—			500	0	0			
King's Share of Condemned Tobacco Stalks.	—			534	2	6			
Salaries at the Exchequer -	84,152	3	7¼						
At the Custom House	3,631	8	2						
				87,783	11	9¼			
Pensions at the Exchequer	49,026	7	1½						
At the Custom House -	1,632	15	0						
At the Excise Office -	52,997	8	9½						
At the Post Office -	13,850	0	0						
				117,506	10	11			
							688,072	14	2¾
Repayment of Loans at the Excise Office on the last year's Tallies.	—			—			75,000	0	0
Interest paid at the Exchequer.	—			196,680	10	7			
At the Custom House -	—			1,187	13	0			
At the Excise Office	—			4,506	1	8¾			
							202,374	5	3¾
							4,361,726	1	4½
Cash at Michaelmas 1692:									
At the Exchequer -	—			191,864	5	8			
At the Custom House -	—			9,322	17	10			
At the Excise Office -	—			24,191	6	10¼			
At the Post Office -	—			1,167	2	5			
Money paid Sir Robt. Howard which he allows not till after Michaelmas 1692, viz., for Customs -	—			20,054	8	2½			
New Impositions -	—			23,813	16	4			
							270,413	17	3¾
							4,632,139	18	8¼

HOUSE OF LORDS MSS.

1692

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued*.

Fol. 29.

A PARTICULAR of the SALARIES charged to be paid in the foregoing account of the ISSUES out of the EXCHEQUER.

	£	s.	d.
The Rt. Hon. Marquess of Carmarthen, as President of the Council	1,125	0	0
The Rt. Hon. Lords Commissioners of the Great Seal	4,500	0	0
The Lords Commissioners of the Treasury	8,000	0	0
The Honourable Commissioners of the Privy Seal	752	0	0
The Four Clerks of the Council	1,000	0	0
William Blathwait, Esq, as Secretary to the Committee for Trade	1,468	6	10
Benjamin Colinge, Door-keeper of the Council	23	0	0
Nathaniel Cox, the same	23	0	0
The twelve Judges of England	8,641	17	10
The eleven Masters in Chancery	825	0	0
The Attorney General	40	13	4
The Solicitor General	35	0	0
The Rt. Hon. The Lord Lovelace, Chief Justice in Eyre South of Trent.	166	13	4
Sir John Trenchard, Chief Justice of Chester	375	0	0
Littleton Powys, Welch Judge	150	0	0
Sir John Trevor, as Speaker of the House of Commons	2,015	0	0
To the Master of the Rolls and for Chaplains	37	4	7
To the Door-keepers of the House of Commons	50	0	0
To the Door-keepers of the House of Lords	50	0	0
Sir Thomas Duppa, Usher of the Black Rod	250	0	0
Sir Charles Cotterel, Master of the Ceremonies	225	0	0
John Dormer, Assistant to the Master of the Ceremonies	91	5	0
Richard Le Bass, Marshal of the same	75	0	0
Serjeants-at-Arms	676	8	2
The Rt. Hon. the Lord Lucas, for keeping prisoners	867	1	9½
Simon de Brienne, Keeper of Kensington Palace	300	0	0
Ralph Kein, Closet Keeper to his Majesty	250	0	0
Robert Ford, Housekeeper at Newmarket	136	17	6
Elizabeth Elliot, Housekeeper at ditto	350	0	0
Earl of Bath, Housekeeper at St. James's	280	0	0
John Jones, Apothecary to the Household	40	0	0
Thomas Shadwell, Poet Laureate	300	0	0
Simon Smith, Harbinger and Otter-hunter	147	10	0
Christopher Tancred, Master of the Harriers	500	0	0
Thomas Felton and William Chiffinch, Masters of the Hawks	1,901	5	6½
Walter Laycock, Surveyor of the Forests North of Trent	25	0	0
Colonel William Wolseley, for the Officers of Dean Forest	420	0	0
Peter Guenon Beaubuisson, Gentleman of the Arms	197	16	3
Richard Welbeck, Keeper of Reading stables	9	2	6
John Fitch, Master Worker of the Fortifications	150	0	0
John How, Esq., Keeper of the Pall Mall	125	0	0
Isaac Richier, Governor of Bermudas	420	0	0
The Rt. Hon. Richd. Hambden, Esq., Chancellor of the Exchequer	200	0	0
Baron Bradbery on his several Fees	178	6	8
Sir Robert Howard, for extra service, besides his share with the Officers of the Receipt.	200	0	0
Auditor Bridges	66	13	4
Auditor Done	66	13	4
Auditor Shales	400	0	0
The four Agents for Taxes, for themselves, clerks, messengers, and Incidents.	1,064	8	4
George Blackwell, Secondary in the Exchequer	5	0	0
John Low, and Peter Le Neve, Deputy Chamberlains	120	0	0
John Packer, Usher of the Receipt on his Liberate	2,429	5	6¾
Carried forward	41,745	9	10¾

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

Fol. 30.

A PARTICULAR of the SALARIES, &c.—*continued.*

	£	s.	d.	£	s.	d.
Brought forward		—		41,745	9	10¾
William Parks, Porter at the Exchequer		—		20	0	0
The Officers of the Receipt on their several Fees		—		792	14	0
To Messengers in General		—		1,508	9	0
John Walker, Usher of the Exchequer, on his fee of 5*d.* per diem and Liberate.		—		1,322	10	2
Thomas Cole and Walter Wallinger, Secondaries in the Remembrancer's Office.		—		40	0	0
William Wardour, Clerk of the Pells		—		145	8	4
John Pottinger, Comptroller of the Pipe		—		40	0	0
Robert Russell, Clerk of the Pipe		—		134	0	2½
The Officers of the Tally Court		—		541	4	0
John Norris, Joiner		—		24	9	7
Henry Villiers, Esq., Master of the Tennis Court		—		264	7	6
John Branch, Bailiff of Battles Walk in Windsor Forest.		—		125	0	0
Michael Studholme, Guide of the Roads		—		137	13	4
Heralds and Pursuivants		—		1,260	0	0
John, Philip, and Joseph Rotiers, Gravers of the Mint.		—		562	10	0
Earl of Rochester, as Keeper of New Park		—		328	10	0
Christopher Musgrave, Esq., Clerk of the Deliveries in the Office of the Ordnance		—		36	10	0
Charles Killegrew, Master of the Revels		—		30	0	0
Simon Harcourt, Secondary in the Crown Office, for fees and charges paid on their Majesties' behalf.		—		260	13	2
Henry Harris, Engraver of Seals		—		125	0	0
The Commissioners of Accounts: nine for half a year, and afterwards seven.	4,000	0	0			
Geo. Tollet, Secretary to said Commissioners, to defray the charge of the said Commission.	2,500	0	0	6,500	0	0
To the Officers of the Works, viz.:—						
Thomas Lloyd, Paymaster of the Works	63	17	6			
Sir Christopher Wren, Surveyor, and his clerk	79	16	10½			
William Dickenson, chief clerk	116	13	4			
Charles Atherton, plumber	31	18	9			
Maurice Emmet, master bricklayer	31	18	9			
John Grove	31	18	9			
William Ireland, glazier	34	0	9			
Henry Philips, graver	47	18	1½			
Matthew Bankes, carpenter	31	18	9			
John Oliver, mason	31	18	9			
Alexander Fort, joiner	92	1	10½			
William Talman, comptroller	41	1	3			
Matthew Roberts, plumber of Windsor Castle	31	18	9			
Joseph Ratcliff	18	5	0			
				685	7	2½
To the Master of the Barges		—		82	10	0
Earl of Bath, Keeper of St. James's Park, for two Underkeepers.		—		346	1	0
Thomas Gardener, Storekeeper of the Ordnance		—		187	1	3
Richard Leake, Master-Gunner of England		—		63	17	6
William Avery, relating to Fortifications		—		69	5	8
Lord Sydney, as Secretary of State		—		125	0	0
Doctor Sherlock, Master of the Temple		—		37	6	8
Robert Mawgridge, Drum-major		—		28	14	11
The King's Remembrancer's Office for the Secondary and Clerks.		—		82	0	0
Carried forward		—		57,651	13	4¾

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

Fol. 30—*cont.*

A PARTICULAR of the SALARIES, &c.—*continued.*

	£	s.	d.	£	s.	d.
Brought forward -		—		57,651	13	4¾
To Charles Bertie, Esq., Treasurer of the Ordnance		—		40	0	0
Anthony Church, Keeper of the Gatehouse -		—		136	0	0
The Master of the Horse - - -		—		183	6	8
Sir Joseph Williamson, Keeper of the Records in Whitehall.		—		480	0	0
John Burrard, Riding Forester in New Forest -		—		11	8	1½
Carried forward -		—		58,502	8	2¼

Fol. 31.

	£	s.	d.
Brought forward -	58,502	8	2¼
To the Earl of Dorset, Keeper of Greenwich Park, for Keeper's wages	300	0	0
Earl of Lindsey, Keeper of Waltham Forest, for Keepers -	233	10	0
Thomas Stephens, messenger, for looking after printing presses and incidents.	30	0	0
Sir Tho. Littleton, Clerk of the Ordnance - - -	54	15	0
John Charlton, Esq., Surveyor of the same - - -	82	2	6
William Wicket, letter carrier - - - - -	15	0	0
K. Charles 2nd's Servants - - - - -	12,646	0	5
Clerks in the Treasurer's Remembrancer's Office - -	22	10	0
John Bellamy in Reward for service - - -	80	0	0
Pages of the Back Stairs - - - - -	36	0	0
Earl of Devonshire, Chief Justice in Eyre North of Trent -	100	0	0
Gentlemen of the Bedchamber - - - - -	8,400	0	0
Grooms of the Bedchamber - - - - -	3,375	0	0
William Clark, Keeper of Bagshot Range - - -	30	0	0
Anthony Seager, for disbursements for the Treasury - -	244	17	6
	84,152	3	7¼

Besides Salaries paid at the Custom House, as in the foregoing Account of Customs.

A PARTICULAR of the PENSIONS charged to be paid in the foregoing ACCOUNT of the ISSUES at the EXCHEQUER.

	£	s.	d.
To Sir Samuel Moreland - - - - - - -	600	0	0
Countess of Plymouth - - - - - - -	3,000	0	0
Mrs. Elizabeth Hamilton, for herself and children - -	1,350	0	0
Countess of Bristol - - - - - - -	2,000	0	0
Earl of Oxford - - - - - - - -	2,000	0	0
Duke of Grafton - - - - - - -	3,500	0	0
Duchess of Grafton - - - - - - -	1,000	0	0
John Vaughan - - - - - - -	150	0	0
Charles Toll, Esq., for the Earl of Sunderland - - -	1,000	0	0
Philip Howard - - - - - - -	460	0	0
Nicholas Tettersol - - - - - - -	100	0	0
Anne Golding - - - - - - -	150	0	0
Anne Lawson - - - - - - -	250	0	0
John Rogers - - - - - - -	100	0	0
Lodowick Bray - - - - - - -	50	0	0
Lady Price - - - - - - -	200	0	0
Eleanor Nedham - - - - - - -	300	0	0
Jane Bartlet - - - - - - -	300	0	0
Lady Armstrong - - - - - - -	250	0	0
James Grey - - - - - - -	510	13	0
Carried forward -	17,270	13	0

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

HOUSE OF LORDS MSS.

1692.

Fol. 31—*cont.*

A PARTICULAR of the PENSIONS, &c.—*continued.*

	£	s.	d.
Brought forward	17,270	13	0
To Charlotte Killegrew	210	0	0
Solomon Foubert	500	0	0
Susanna Leighton	100	0	0
Sir Gabriel Sylvius	300	0	0
Mrs. Mary Fanshaw	200	0	0
Carried forward	18,580	13	0

Fol. 32.

	£	s.	d.
Brought forward	18,580	13	0
To Widow Collins	20	0	0
Colonel Ogar	45	12	6
Major Boskin	45	12	6
Colonel Hubanck	45	12	6
Duke	57	12	6
Sir Charles Slingsby	40	0	0
Mallet Slingsby	8	0	0
Elizabeth Slingsby	20	0	0
Richard Sydenham	87	12	1
Capt. Kettleby's grand-children	36	10	0
Capt. Baker	36	10	0
Anne Aubery	20	0	0
Lieut. Watkinson	18	5	0
Sir William Killegrew	187	10	0
Nicholas Nedham	120	0	0
Earl of Bath	1,250	0	0
Anne Fitzharris	125	0	0
Parry Walton	100	0	0
Francis Mansel	50	0	0
Jane Browning	45	0	0
Anne Baker	225	0	0
King Charles the First's Hospital	50	0	0
St. Martin's Parish	100	0	0
St. Margaret's, Westminster	50	0	0
Queen Dowager	12,157	6	4½
Christ's Hospital	370	10	0
Lord Mountjoy's children	75	0	0
Duchess of Richmond and Lennox	1,000	0	0
Duke of Southampton	1,500	0	0
Duke of Northumberland	3,000	0	0
Duchess of Buccleuch	4,000	0	0
Richard Nedham	60	0	0
Duchess of Buckingham	600	0	0
Earl of Derby, for Ministers in the Isle of Man	100	0	0
Vicar of Litchfield	15	0	0
Rose	30	0	0
Buss	10	0	0
Capt. John Richards	250	0	0
Sir John Osborne	25	0	0
St. James's parish	25	0	0
The Dean and Chapter of Westminster	60	0	0
Charles, Duke of Schonberg	4,000	0	0
Eaton College	42	0	0
Carried forward	48,709	6	5½

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued*.

Fol. 33.

A PARTICULAR of the PENSIONS, &c.—*continued*.

	£	s.	d.	£	s.	d.
Brought forward -		—		48,709	6	5½
To Master of Southwell School - -		—		10	0	0
Elizabeth Madge - - - -	10	0	0			
Mary Nevill - - - -	12	10	0			
Sophia Nevill - - - -	12	10	0			
Helen Prideaux - - - -	7	10	0			
Ellen Pendrel - - - -	8	6	8			
Capt. Read - - - - -	12	10	0			
Ellen Rose - - - - -	3	0	0			
Capt. Silver's wife - - - -	3	0	0			
John Stephens - - - -	5	0	0			
Magdalen Thomas - - - -	2	10	0			
Mary Watson - - - -	10	0	0			
Susan Woodward - - - -	12	10	0			
Mag. Whitley - - - -	10	0	0			
Richard Yards - - - -	5	0	0			
William Aldham - - - -	10	0	0			
Mary Bocock - - - -	10	0	0			
Martha Bastian - - - -	3	0	0			
Alice Elliot - - - - -	5	0	0			
Nicholas Estoll - - - -	12	10	0			
Joyce Grooting - - - -	12	10	0			
George Holding - - - -	5	0	0			
Lady Hamilton and Katharine Ironmonger, each 10*l*.	20	0	0			
Richard Jennings - - - -	5	0	0			
Dame Elizabeth Lenthal - - -	5	0	0			
Elizabeth Loop and Elizabeth Richards -	10	0	0			
Mary Mitchel - - - - -	10	0	0			
Martha Francis and Joseph Lee, each 50*l*. per annum.	25	0	0			
Mary Brinknal - - - -	5	0	0			
Laude Crispe - - - -	5	4	0			
Hester D'Civil (*sic*) - - -	0	10	0			
John Clement - - - -	12	10	0			
Thomas Smeaton and Alice Baggot, each 20*l*. per annum.	10	0	0			
Three poor persons disabled in service -	20	0	0			
				307	0	8 (*sic*)
				49,026	7	1½

Memorandum.—The Weekly Certificate from the Exchequer, between 29 Jan. and 5 Feb. 1691[-2], carries out the last particular, though the particulars come to 5*l*. 10*s*. more, and therefore, that it may agree with the Exchequer balance, it is set down in this account according to that certificate, though a mistake.

Fol. 34.

A PARTICULAR of the FREE GIFTS charged to be paid on the foregoing ACCOUNT of the ISSUES out of the EXCHEQUER.

	£	s.	d.
To Anne Babington - - - - - - -	148	4	6
Lord Stranaver - - - - - - -	500	0	0
Edward Howard - - - - - - -	50	0	0
Du Pre - - - - - - -	50	0	0
Kemp - - - - - - -	20	0	0
John Norris - - - - - - -	45	9	0
Carried forward -	813	13	6

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued*.

Fol. 34—*cont.*

A PARTICULAR of the FREE GIFTS, &c.—*continued*.

	£	s.	d.
Brought forward	813	13	6
To Anne Kelley	100	0	0
Jane Davis	100	0	0
Frances Langford	100	0	0
Anne Dennis	20	0	0
Mary Scudmore	40	0	0
Lady Anne Bunce	150	0	0
Lady Dallison	100	0	0
Elenor Carlisle	80	0	0
Lady MacCarty	300	0	0
Mary Kirk	325	0	0
Mary Morrison	100	0	0
Colonel Edward Trufsel	50	0	0
Katharine Lesly	100	0	0
Martin De Carbonnel	30	0	0
Mary and Elizabeth Reynolds	50	0	0
French Protestants	13,200	0	0
Countess Dowager of Anglesey	100	0	0
Lady Brewster	50	0	0
Three Chaplains to Jamaica, 20*l.* each	60	0	0
Irish Protestants	500	0	0
John Weekes	80	0	0
James Prat	100	0	0
Virginia Chaplains	140	0	0
Archbishop of Canterbury	107	7	4½
Bishop of Hereford	294	11	3¾
Bishop of Gloucester	400	0	0
Dr. Frampton, late Bishop of Gloucester	162	10	0½
Robert Wolseley	200	0	0
James Roach	50	0	0
Shadrach Vincent, Esq.	449	10	11½
Mary Leech	5	0	0
Francis Goreman	15	0	0
Job Atkins	20	0	0
Carried forward	18,392	13	2¼

Fol. 35.

	£	s.	d.
Brought forward	18,392	13	2¼
To Elizabeth Simpson	50	0	0
Barbara Roach	30	0	0
Susannah Wesencroft	5	0	0
Colonel Emanuel Kingsmill	150	0	0
Alice King	75	0	0
Ursula Church	50	0	0
Lady Anne Moody	5	0	0
William Loup	20	0	0
Dame Sarah Newcomen	50	0	0
John Ward	67	12	0
Philip Madox	100	0	0
Chaplains to the Leeward Islands	40	0	0
Lord Willoughby of Parham	100	0	0
John Letherhead	186	5	6
Titus Oates	119	0	0
William Fanshaw	16	0	0
Lewis De Vill	50	0	0
Sir James Edwards	1,095	0	0
Carried forward	20,601	10	8¼

HOUSE OF LORDS MSS.
1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 35—*cont.*

A PARTICULAR of the FREE GIFTS, &c.—*continued.*

	£	s.	d.
Brought forward	20,601	10	8¼
To Sir John Morgan	500	0	0
George Ward	65	14	0
Bishop of Bristol	400	0	0
Poor of London	1,000	0	0
Lord Sydney, for his equipage for Ireland	3,000	0	0
Duke of Ormond	1,875	0	0
Colonel Fletcher	100	0	0
Walter Gibson, for the loss of two Frigates	4,380	0	0
Several persons	125	12	0
The Vaudois	422	17	3¾
Elizabeth Willoughby and others	70	0	0
William Aldenham	20	0	0
Colonel Howard	60	0	0
Rebecca Hamilton	50	0	0
Goodman	50	0	0
Matthews	18	0	0
Francis Roach	20	0	0
Lord Morley and Monteagle	100	0	0
William Aldworth	200	0	0
	33,058	14	0

Fol. 37.

The ACCOUNT of LOANS stated, from

	£	s.	d.	£	s.	d.
Borrowed on the—						
First Twelve Months' Aid	—			475	3	11
Second Twelve Months' Aid	—			1,549,826	8	0
Quarterly Poll and General Loans	—			653,295	2	4
Excise.—Hereditary and ¼ Temporary	60,500	0	0			
Additional	4,000	0	0			
Hereditary and Temporary	69,000	0	0			
¼ Customs	50,000	0	0			
¾ Customs	435,427	2	1			
East India Goods	191,479	9	11			
				810,406	12	0
				3,014,003	6	3

for the Year ending the 29th of September 1692—*continued*.

[Fol. 36 is blank.]

Fol. 38.

1 January 169½ to 29 September 1692.

	£	s.	d.	£	s.	d.
Repaid of the—						
First Twelve Months' Aid	—			449,343	11	9½
Second Twelve Months' Aid	—			696,278	4	9
Quarterly Poll and General Loans	—			177,000	0	0
Excise.—Hereditary and ¼ Temporary	60,500	0	0			
¾ Excise	58,767	8	10			
Additional	153,000	0	0			
Hereditary and Temporary	69,000	0	0			
¼ Customs	20,000	0	0			
¾ Customs	273,859	9	1			
East India Goods	96,305	7	9			
Continued Impositions	186,695	7	3½			
				918,127	12	11½
				2,240,749	9	6
So received more than paid	—			773,253	16	9
				3,014,003	6	3
Memorandum.—						
By the above Account there hath been more received on Loans than repaid	—			773,253	16	9
Also remaining unpaid on Tallies part of 60,500*l.* on the Hereditary and ¼ Temporary, and 69,000*l.* on Hereditary and Temporary Excise, there being, in truth, but 30,000*l.* paid thereon to 29 Sept. 1692, which advanceth the receipt of Loans more than hath been actually repaid	—			99,500	0	0
				872,753	16	9

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts

Fol. 39.

A GENERAL ACCOUNT of the INCOMES and ISSUES at the EXCHEQUER, CUSTOM

	£	s.	d.	£	s.	d.
In Cash at the Exchequer 1 Jan. 169½ -		—		100,553	17	8½
Received since, viz.:—						
On Customs, Coinage and 4½ per Cent. -		—		337,789	6	2½
New Impositions - - - - -		—		346,960	15	0
Old Excise - - - - -	429,378	9	3¾	—		
Additional Excise - - - - -	310,005	13	2	—		
Double Excise - - - - -	263,640	1	11½	—		
Low Wines - - - - -	11,116	16	2	—		
				1,014,141	0	7¼
Letter Money - - - - - -		—		45,080	13	10
Small Branches - - - - -		—		42,866	15	3½
Arrears of Old Taxes - - - -		—		443,953	14	4
Second Twelve Months' Aid and Quarterly Poll.		—		1,010,983	16	8
Account of Loans within the said time -		—		872,753	16	9
				4,215,083	16	4¾

Memorandum.—

In this Account is included, both in Receipts and Payments, to make the same agree with Sir Robert Howard's Accounts, Tallies struck upon the Excise for 99,500*l.* and Tallies on the Post Office for the Works, 2,400*l.*, so that the true Receipts and Payments were 101,900*l.* less to the 29 September 1692, than in the account above.

for the Year ending the 29th of September 1692—*continued*.

Fol. 40.

HOUSE, EXCISE and POST OFFICES, from 1 January 169½ to 29 September 1692.

	£	s.	d.	£	s.	d.
Paid the Treasurer of the Navy	1,211,388	6	7			
Ordnance	246,912	5	4			
English Army	930,903	4	5½			
Irish Army	738,374	13	8			
				3,127,578	10	0½
Civil List:—						
Earl of Belmont, Treasurer to Her Majesty	39,000	0	0			
Privy Purse	14,500	0	0			
Mr. Guy and Lord Sydney	24,340	7	9¼			
Cofferer	93,975	3	11			
Treasurer of the Chamber	31,426	15	0¾			
Great Wardrobe	23,943	2	0			
Master of the Horse at the Exchequer — 21,276 16 6	—					
at the Custom House — 7,400 0 0	—					
	28,676	16	6			
Master of the Robes	2,500	0	0			
The Mint	6,146	12	9			
Rent paid	175	0	0			
Band of Pensioners	3,000	0	0			
Ambassadors, Envoys, Consuls, &c.	21,500	17	3			
Law Suits	2,500	0	0			
Jewels and Plate	9,245	7	0			
Gardens	6,140	0	0			
Works	31,446	5	2½			
Rewards to Receivers	9,193	2	6½			
Free Gifts	27,585	11	9¼			
Pensions	84,402	8	3			
Salaries	75,879	3	4¼			
King's Share of Condemned Tobacco Stalks.	534	2	6			
Redemption of Captives	500	0	0			
Allowances to the Farmers of Post Fines	6,427	1	4½			
Mrs. Mary Whitton for Swords	50	0	0			
				543,087	17	3
Principal paid at the Excise	65,000	0	0			
and to pay there	99,500	0	0			
Interest paid at the Exchequer	144,184	18	10¾			
				308,684	18	10¾
Balance at the Exchequer in Cash	191,864	5	8			
not allowed by Sir Robt. Howard till after Michaelmas 1692.	43,868	4	6½			
				235,732	10	2½
				4,215,083	16	4¾

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

Fol. 41.

An ACCOUNT of what the Parliament gave WINTER SESSIONS 1691; compared with the INCOMES and ISSUES since that time.

	£	s.	d.	£	s.	d.
The Receipts from 1 Jan. 169½ (including what was then in Cash in the Exchequer) unto 29 Sept. 1692, were - -	—			4,215,083	16	4¾
Out of which deduct—						
Sir Robert Howard's fictitious receipts and payments at the Excise Office, which comes to - - - - - -	99,500	0	0			
The like by his Tally on the Post Office for the Works, being - - - -	2,400	0	0	101,900	0	0
	Resteth -			4,113,183	16	4¾
Out of which must be further deducted what was actually paid at the Excise Office in satisfaction of Loans before 1 Jan. 169½ - - - - - - -	65,000	0	0			
More paid for Interest of Loans since 1 Jan. 169½ at the Exchequer, Custom House, and Excise Office - -	144,184	18	10¾	209,184	18	10¾
	And then Resteth			3,903,998	17	6
The Money given in the Winter Sessions of Parliament to defray the charge of the War from 1 Jan. 169½ to 1 Jan. following, was—						
For the Army - - -	1,935,787	16	3			
Navy - - -	1,575,890	0	0			
	3,511,677	16	3			
To which add, by way of admittance, the charge of the Civil List within that time to amount to - - - - -	600,000	0	0			
So the whole charge of the War and Government for one year - - -	4,111,677	16	3			
Toward which paid out of the three Quarters' Receipt to the Navy, the Ordnance, and the Army, as appears in that account - - - - - -	3,127,578	10	0½			
And on account of the Civil List - -	543,087	17	3			
In all - -	3,670,666	7	3½			
So that to state all the charges for one entire year adjusted last Sessions in Parliament, there wanted at Michaelmas 1692 - - - - - - - -	441,011	8	11½			

Towards the satisfying which, there was then at the Exchequer a great Cash, amounting to 235,732*l.* 10*s.* 2½*d.*, of which, though much of it was appropriated to repay loans, yet a considerable part was not so, but hath been since applied toward the satisfying the balance above. And further, towards satisfying the same, must be reckoned all the Receipt of the Revenue, not anticipated before Michaelmas, and what will be due for the double Excise to 17 Nov. 1692, and arrears thereof to come in between Michaelmas and 1 Jan. next, which will go far towards the clearing the said balance. So that, if the expenses for this year, between Jan. 1691 and Jan. 1692 had not exceeded the said Estimates in Parliament, notwithstanding the Poll Bills falling short, there had been very little wanting to have cleared this year's account, and consequently little need of borrowing 700,000*l.* upon the credit of the Paid Bill given last Session.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

HOUSE OF LORDS MSS

1692.

Fol. 42.

The STATE of the LOANS, 29 Sept. 1692.

	Borrowed. £	s.	d.	Principal Repaid. £	s.	d.	Principal Owing. £	s.	d.
First Twelve Months' Aid	1,542,121	10	11½	1,541,949	1	9½	172	9	2
Second ditto	1,549,826	8	0	696,278	4	9	853,548	3	3
¾ Customs	435,427	2	1	117,426	2	5	318,000	19	8
¼ Customs	50,000	0	0	20,000	0	0	30,000	0	0
Hereditary and Temporary Excise.	129,500	0	0	30,000	0	0	99,500	0	0
⅔ Additional Excise	999,225	0	2½	195,500	0	0	803,725	0	2½
East India Goods	492,029	19	9	224,554	15	3	267,475	4	6
Continued Impositions	700,100	0	0	233,600	7	3½	466,499	12	8½
Loans in General	488,006	8	4	45,000	0	0	} 513,795	2	4
Quarterly Poll	165,288	14	0	94,500	0	0			
	6,551,525	3	4	3,198,808	11	6	3,352,716	11	10

	£	s.	d.	£	s.	d.
All Principal then owing upon the said Loans was	—			3,352,716	11	10
Out of which ought to be deducted what was owing upon Loans to be repaid out of the Revenue, viz.:—						
On ¾ Customs	318,000	19	8			
¼ Customs	30,000	0	0			
Hereditary and Temporary Excise	99,500	0	0			
				447,500	19	8
Resteth	—			2,905,215	12	2
Towards which in Cash at Michaelmas 1692 at the Exchequer, &c.	270,413	17	3¾			
Arrears at the Excise Office by Certificate	271,000	0	0			
To Receive on the second 12 Months' Aid 891,276 3 4½						
on the Quarterly Poll Bill. 353,743 9 0						
	1,245,019	12	4½			
By Estimate according to the produce last year between Michaelmas 1691 and Michaelmas 1692 of what will be produced by East India Goods to 10 Nov. 1695.	442,912	10	0¾			
By the like Estimate of what will be produced by the continued Impositions to 24 June 1696.	1,190,303	11	9			
More by the ⅔ Additional Excise so much as it is already made a Fund to repay Principal beside Interest.	803,725	0	2½			
				4,223,374	11	8½
Out of which deduct the balance above, being	—			2,905,215	12	2
Remaining to come in, in time towards defraying the charge of the War, except only that allowance must be made from the time that the duty on Sugar ceaseth (according to the value on that duty), the sum of	—			1,318,158	19	6½

HOUSE OF LORDS MSS.

1692.

ACCOUNTS COMMISSIONERS.—Book entitled, The Accompts for the Year ending the 29th of September 1692—*continued.*

Fol. 42—*cont.*

The STATE of the LOANS, 29 Sept. 1692—*continued.*

Note.—In this account is reckoned the Cash at Michaelmas and the arrears then due at the Excise, because besides those sums there is enough to come in on the 700,000*l.* borrowed on the Poll Bill and the produce of this quarter from the Double Excise and from the Revenue not anticipated, to defray the charge of this quarter. And therefore, although those sums included in this account may be spent before 1 January next, it is supposed as much or more will then be left on the whole produce of this quarter.

Memorandum.—That the Account above expressed in this leaf is only an estimate of what may come in by the Funds now charged with the debts thereupon, which by reason of the present charge (till that is lessened) not being of present use, the deductions proper to be made for interest and other charges are not stated, which will be best done at such time as use shall be made of what they will yield over and above the sums now charged upon them.

Fol. 43.

THO. CLARGES	L.S.	SAM. BARNARDISTON	L.S.
PAUL FOLEY	L.S.	P. COLLETON	L.S.
MATH. ANDREWES	L.S.	RO. HARLEY	L.S.
BENJAMIN NEWLAND	L.S.		

Endorsed as brought in this day by the Secretary to the Commissioners for taking the Public Accounts of the Kingdom. L.J, XV. 127. [The House on the 26th had ordered the Commissioners appointed by the late Act to examine the Public Accounts to send in an Account, in writing, under any five or more of their hands and seals, how the public treasure, revenues, and other things mentioned in that Act, had been disposed of. (*Ib.* 126.)]

611. Nov. 28. **State of the Nation:—**

PART I. ADDRESS OF ADVICE.

PART II. NAVAL MISCARRIAGES.

Papers connected with proceedings in a Committee of the Whole House on the State of the Nation. [The House this day, after reading the King's Speech of the 4th inst. (L. J., XV. 102, *in extenso*), resolved itself into Committee to consider it, pursuant to an Order of the 26th (*Ib.* 126), made on a motion to appoint a day for that purpose (MS. Min.). The proceedings, which ended in the Address of Advice on 18 Feb., were as follows:—

28 Nov. In C. W. H. First paragraph of the Speech read. *Moved*, That an Address be presented, that in future his Majesty's native subjects may be preferred in the Army before all others. That the Chief Commander of the English Foot [then Count Solms] shall be a subject born in England. After debate, *Question* proposed: Whether the words ("upon all occasions of vacancy that shall happen for the future") shall be inserted? *Previous Question* put: Whether the said Question shall be now put? Resolved in the *Negative*. *Agreed*: That the Chief Governor of the English forces under the King shall be a subject born in their Majesties' dominions. This Head was then reported, and agreed to by the House, as part of an Address of Advice. (MS. Min.; L. J., XV. 127.)

29 Nov. In C. W. H. (E. Bridgewater in the Chair), after some debate, *Agreed* to report for (1) A List of General Officers and Troops on the English establishment, to be sent in by Mr. Blathwaite, Secretary to the Army;* (2) A List of Officers belonging to the Ordnance,† as also an Account of the Stores, and what has been delivered out the last two years, and, on a question having arisen, whether the English officers have the same commands or posts as formerly, (3) Regulations for posting and ordering the Troops and Officers that were sent into the Low Countries in 1677 or 1678, to be sent in by the Keeper of the Paper Office in Whitehall.‡ *Moved* to enquire into the Descent intended in France, and the reason of our ships being lost since the victory at sea. *Moved* to hear Sir John Ashby. *Agreed* to report for—

(4) Orders and Instructions to the Fleet and the Answers thereto.§

(5) Orders relative to providing Transports.‖

(6) An Address for Orders, &c., sent by the Council or Secretary of State in the Summer's expedition at sea.

House resumed. Report made and agreed to. (MS. Min.; L. J., XV. 128.)

1 Dec. Papers brought in by *Mr. Blathwaite** and *Mr. Charlton*,† and referred to C. W. H. *Lord Cornwallis* acquaints the House that there are several Clerks at work in the Admiralty Office preparing papers for the House, but he fears they cannot be ready till the 3rd inst. *E. Rochester* acquaints the House that E. Nottingham was at work in his office with his own hands, to prepare papers for the House, and that they cannot yet be ready.

House put into a Committee upon Advice to the King, E. Bridgewater in the Chair. The Papers read. *Mr. Charlton* is called in and

* Papers (*a*), Part I.
† Papers (*b*), Part I.
‡ *See* Paper (*c*), Part I.
§ Papers (*b*) to (*g*), Part II.
‖ Paper (*a*), Part II.

HOUSE OF LORDS MSS. 1692.

asked in what time he can be ready with an Answer to the Order for an Abstract of Stores for two years, and what has been delivered out, and where, and what now remains [for] land and sea? He says, he believes it will take three months to do it. In time of peace they are allowed two months. He withdraws. [*Question:*] That they should make an Abstract of the Stores two years ago, and what was delivered since, and what now remains, and put under the name of every species the sum total, and to what uses they have been issued. *Mr. Charlton* is re-called and asked the above Question, and also if they have not a State of this in their Office? He says that two years since there was a State made, and none since. *Moved*, to consider the neglect of the Office of Ordnance.

House resumed. *E. Bridgewater* reported the draft of an Order to be sent to the Ordnance, and desired another day might be appointed for C. W. H. *Ordered*, That the Ordnance Officers send by 7 Dec. an Account of the Stores two years ago, and what has been delivered since, &c., and also a List of all foreigners on their Establishment. (MS. Min.; L. J., XV. 131.)

2 Dec. Papers brought in by the *Commissioners of Transports.** (MS. Min.)

3 Dec. C. W. H. (appointed for this day on 1 Dec.) put off to 6th inst. Several Papers brought in from the Lords of the Admiralty.† (MS. Min.; L. J., XV. 133–4.)

6 Dec. *E. Nottingham* brought in (by Command) the Papers, pursuant to Address of 29 Nov.‡ (L. J., XV. 129.) Said Papers referred to C. W. H.

House put into Committee, E. Bridgewater in the Chair. E. Nottingham's Papers read. *Moved*, that a day be appointed to consider of the business.

House resumed, and on report, ordered to be again in Committee tomorrow. (MS. Min.; L. J., XV. 135–6.)

7 Dec. *Mr. Charlton*, for the Ordnance Officers, brought in (pursuant to Order of 1st inst.) two Books§ and one Paper of names of Officers.‖ He says that, as for the issues of the Stores the last two years, they have not time as yet to do them, but are ready to obey the House in all things.

House put into Committee, E. Bridgewater in the Chair. The Papers brought in from the Commissioners of Transports ¶ are read.

House resumed. *Moved* that a Committee of both Houses be appointed to consider of Advice to be given to his Majesty upon consideration of the State of the Nation. After debate, *Question* put: Whether this House shall now send to the House of Commons for a Conference, and to propose to them that a Committee of both Houses should be appointed to consider of the present State of the Nation, and what advice to give his Majesty upon it? Resolved in the *Negative*. Contents 36; Not-contents 48. Tellers: E. Stamford and E. Scarborough. *Moved*, That a Committee be appointed to examine the papers brought in pursuant to the Orders of the House. *Moved* that the original Letters be brought to the House, of which E. Nottingham has brought the Abstracts. *Ordered* that the House be in Committee again tomorrow. (MS. Min.; L. J., XV. 136–7.)

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* Paper (*a*), Part II.
† Papers (*b*) to (*k*), Part II.
‡ Paper (*l*), Part II.
§ Paper (b^5), Part I. The second Book apparently is wanting.
‖ Paper (b^6), Part I.
¶ Paper (*a*), Part II.

8 Dec. *E. Nottingham* acquainted the House that he had brought the Book* and Letters, and that the Clerk had taken them by a List.† *Ordered* that the Letters be referred to C. W. H.

House put into Committee, E. Bridgewater in the Chair. The List of all such foreign Officers as are employed in the Ordnance is read.‡ *Moved*, that William Meesters being a foreigner and Commissioner of the Board of Ordnance, and Storekeeper, it be a Head of Advice to his Majesty to remove him. *Moved*, that no foreigner should be of the Board of Ordnance, or Keeper of the Stores in the Tower. *Agreed.*— And for the encouragement of the English, that there may not be so many strangers employed in the Office of the Ordnance. *Agreed.*— And that the Chief Officer of the Train of Artillery abroad, may be one of their Majesties' subjects. *Previous Question* put: Whether this Question shall be now put? Resolved in the *Affirmative*. Contents 41; Not-contents 38. Tellers: E. Marlborough and E. Scarborough. *Main Question* put and resolved in the *Affirmative*. *Agreed*, that E. Nottingham inspect the Book of Entries in 1678 for the Capitulation, [and that it] be brought tomorrow morning. *Moved* that the House take the Papers brought in by E. Nottingham into consideration in C. W. H. tomorrow the first business, and that the House be put into a Committee upon the business of the Capitulation and the regulation of the Officers.

House resumed. On report, *Ordered* to be in C. W. H. again tomorrow, on E. Nottingham's Papers, and on 10 Dec. on the Capitulation. (MS. Min.; L. J., XV. 139.)

9 Dec. House put into Committee, E. Bridgewater in the Chair. The following Papers were read:—

E. Nottingham's Abstract. [Paper (*l*), Part II.]
Letter by E. Nottingham which orders the Fight, by Admiral Russell, by the Queen['s command], May 11, [repeated] May 13. [*See* C. J., X. 750.]
Admiral Russell's Letters in answer to the Queen's.
Letter of the Council of War, 15 May 1692. [*See* C. J., X. 750.]
Queen's Order, 17 May. [*See* C. J., X. 750.]
Admiral Russell's Letter, La Hogue, 23 May 1692. [*See* p. 211, below.]
Admiral Russell's Letter, 25 May. [*See* p. 212, below.]
Admiral Russell's Letter, 26 May.§

Moved, that Admiral Ashby attend. *Ordered* that he be sent for to attend presently, and if he cannot be found this day, then to attend tomorrow morning. The following Papers read:—

Queen's Order, 3 June. [*See* C. J., X. 751.]
Admiral Russell's Letter 3 July 1692. [*See* C. J., X. 753.]
Do. Do. 10 July 1692. [C. J., X. 718–9. *In extenso.*]
E. Nottingham's Letter to him. [*See* C. J., X. 754 (13 July).]
Queen's Order, 6 June. [*See* C. J., X. 751.]
Council of War, sent in Admiral Russell's Letter, 13 [either June 13 or July 13. *See* C. J., X. 717 and 719.]

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* Paper (*l*), Part II.

† Papers (*m*) and (m^1), Part II. Luttrell, under date, says:—"L. Nottingham delivered in his Papers relating to the descent, and made a long speech in his justification, desiring them thoroughly to examine it, and place the fault on whom it lay, hinting at the Admiral" [Russell].

‡ Paper (b^6), Part I.

§ This must be E. Nottingham's Letter to Russell of date, referred to in his Abstract (Paper (*l*), Part II.).

HOUSE OF LORDS MSS. 1692.

Account given that Sir John Ashby will attend the House tomorrow.

House resumed. On motion, a Committee appointed to consider of methods and ways how a Member of the House of Commons might be spoken with.* *Ordered* to be in C. W. H. again tomorrow, as to giving Advice on the papers and letters brought in by E. Nottingham (MS. Min.; L. J., XV. 140.)

10 Dec. House put into Committee, E. Bridgewater in the Chair. *Sir John Ashby* having been heard to several questions, part of Admiral Russell's Letter of 23 May 1692 was read, as also his Letter of 25 May. *Sir John Ashby*, being called in [again], was asked to give an account of what passed when the French went into the Race of Alderney.

A. I received a Letter from Admiral Russell.† Tourville was to the southward of me, and he went into the brest (*sic*) of Alderney. Admiral Russell had opportunity of cutting and going after the ships. The Dutch leewards of me bore away. We came to Admiral Russell to La Hogue bay to the burning of these ships.

Q. Did the Dutch go away by your order?

A. They lay on the leeward of me, and we came to La Hogue bay.

Q. What occasioned you to go to La Hogue?

A. We had lost sight of the French on Saturday night, and I thought it then best to follow to La Hogue.

Q. Was not the French [fleet] as big [in] ton[nage] as others?

A. I cannot say. The pilots would not take care of any of the first or second-rate ships.

Q. What occasioned the loss of sight [of the French]?

A. They were a league and a half to windward of us. They ventured to do that in the night, which we did not dare in the day.

He withdrew. *Moved* that he be asked if he was strong enough to fight them. *Agreed* that the following questions be asked him, viz.:—

1. Whether the whole number of the ships he was sent after, the 15 and 6 ships, went through the Race of Alderney, or what number of them?

2. Whether he could not advise with more pilots?

3. Whether the Dutch were under his command at that time?

4. What strength he had, and what the Dutch? How he came to think it necessary to go to La Hogue, and not to St. Malo or westward?

He is called in again and asked those questions.

Answer to No. 1:—Not above 6 sail got through. I saw but 6 next day and 15 sail. They plied and went by Jersey by the rocks. They were to windward of Alderney. They went betwixt Jethou and Guernsey.

Answer to No 2:—I came to an anchor between Guernsey and the Casquets. I made a signal; but two could come to me. Capt. Robson told me: "Sir, I would not venture a ship of 100 tons." The wind was at W.S.W. and W.N.W., dirty weather.

Answer to No. 3:—When the Admiral made the signal for all to chase, the Dutch were to windward. The next morning I was to windward. Admiral Russell had not time to give me order. I believe they are under, [my command], out of sight of the flag. With the Dutch, I was strong enough, and desired no more strength. If I had thought it necessary, I would have given a signal, and no question but they would have obeyed me. I made no signal.

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* This Committee was appointed, according to Ralph (II., 397), in consequence of some statements in E. Nottingham's speech this day, incriminating Admiral Russell.

† *See* Paper (*n*) below.

Answer to No. 4:—We had lost sight of the 15 sail, they being better acquainted than we. We had no prospect to the westward. We came to the Admiral. If we had had any sight, we would have pursued. The Dutch were not in sight of Admiral Russell.

Q. Why did you not pursue out of sight the next day?

A. The pilot, a Guernsey man, said that he would not take care of the ships any further. We were in at Guernsey. At a general consultation with Admiral Russell, the pilot said he would not take care of them.

Admiral Russell's Letter to him* read. He withdrew. He is re-called, on motion, and asked the following question:—

Q. Whether the French lay at anchor the night after the Fleet [Fight], and we rode loose?

A. As to that, I was not a judge. It was thick weather. I saw Russell's flag, and he said he was clapt to an anchor. I believe they did anchor, about 9 or 10. Our Fleet did not anchor, as I know of. I anchored next morning. He was told he was dismissed.

House resumed. *V. Weymouth* reported a precedent from the Committee as to speaking with a Member of the House of Commons, which was read.† After debate thereupon, *Resolved* that a Conference be had with the Commons, and to communicate to them the Papers before this House. *Ordered* that a Committee be appointed to consider of the Narrative, Papers, Letters and Book brought in by E. Nottingham, and to prepare somewhat thereupon, to be offered at a Conference. *Ordered* to be in C. W. H. again on the 12th upon the Capitulation. (MS. Min.; L. J., XV. 142.)

12 Dec. House put into Committee, E. Bridgewater in the Chair. *E. Nottingham* gave an account that he had searched his office, but could not find the Capitulation. *E. Marlborough* brought in the original Instructions for the Capitulations in the Low Countries. A Clause read. Two other Clauses read:—"1. That our troops." House *moved* to be informed how the troops are now regulated. House was informed that in 1678 the post of honour (*sic*). [*Proposed*]: to take notice to his Majesty that he will be pleased to have a principal regard to the honour of this nation as to posting the troops. *Agreed* that it be reported that a Committee be appointed to word a clause pursuant to the debate.

House resumed. *E. Bridgewater* reported accordingly. Committee appointed to draw a Clause.‡

House adjourned during pleasure, and the Lords withdrew to draw the Clause. After some time,

House resumed. *M. Halifax* reported the Clause, being an Address for English officers to command Confederate ones of the same rank, except those of crowned heads. (L. J., XV. 145. *In extenso.*) The Clause read, and after debate, on Question, *agreed to*, and resolved accordingly. (MS. Min.; L. J., XV. 144–5.)

14 Dec. House to be put into Committee tomorrow. (MS. Min.; L. J., XV. 148.)

15 Dec. House put into Committee on further Heads of Advice. *Moved*, that all those troops that his Majesty shall think fit to leave here this next summer, may be his own subjects, except his Guards. After debate, [*Proposed*], That for the future we may have no other

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* Paper (*n*), Part II.

† Com. Book, 10 Dec.

‡ Com. Book, 12 Dec. The names originally proposed for this Committee include E. Rochester (MS. Min.), who is not in the List in L. J., XV. 144–5.

HOUSE OF LORDS MSS.

1692.

foreign troops but his Majesty's Guards. To advise his Majesty that there may be no more foreign troops for the future than there are at present. *Question:* That no more foreign troops shall be *continued in** England for the future, than there are at present. *Previous Question* put: Whether this Question shall be put? Resolved in the *Negative.*

House resumed. (MS. Min.; L. J., XV. 149.)

17 Dec. Report made by Committee appointed on 10th inst., offering several Heads to the Consideration of the House.† Report read. *Moved* that copies be made of the original Letters in the Book from the Queen to Mr. Russell. *Moved* that the Heads be read on the 19th inst., and that all the Lords be summoned to attend. (MS. Min.; L. J., XV. 151.)

19 Dec. The Heads read. A debate arose, whether after the fight, the Fleet anchored or not, and what occasioned the distance between the enemy and us after the fight next morning, which seems not to be mentioned in the Heads. *Moved* that the Journals of the Fleet be inspected, and that a Committee be appointed to inspect some of them. *Moved* that Mr. Russell knows the particulars, and that an account be had from him. *Proposed*, that the Paper be transmitted to the House of Commons at a Conference, and the Letters and Narrative, with a copy of the dates of the Queen's and E. Nottingham's Letters. *Agreed*, that a Conference be desired with the Commons, and that these Papers be delivered at the Conference. After debate, wherein several Members of that House were mentioned, a Message was sent to the Commons for a Conference, &c. (MS. Min.; L. J., XV. 157.)

20 Dec. Conference agreed to, and had and reported. (MS. Min.; L.J., XV. 158.)‡

21 Dec. Message from the Commons for another Conference, to which the House agreed. §[The House took notice that but one person came with the Message from the House of Commons. After some time, and he not called, the House was acquainted that Sir John Morton had several Commons with him.] The Commons were then called in and told that the House agreed to a Conference.

Conference had and reported, with a Resolution of H. C. approving Admiral Russell's conduct. Report to be considered tomorrow. (MS. Min.; L. J., XV. 160.)

22 Dec. Report of last Conference read. After debate, *Ordered* that

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* Originally "brought into," then altered to "kept in," and finally altered as above (MS. Min.).

† L. J., XV. 153–7. *In extenso.* This Committee sat on Dec. 13, 14, 15, and 17, E. Bridgewater in the Chair. The Com. Book contains the rough Heads of the first part of the Report, down to "After the Battle," as well as the following entries:—14 Dec. Some debate arising concerning the power of the Committee, *Ordered* that the House be acquainted therewith, and their direction received therein. [As to this, the MS. Min. contain an entry, not in L. J., viz.:—"E. Bridgewater reported from the Committee appointed to consider of the Papers, Letters, and Book brought in by E. Nottingham, that they were in dispute whether the Papers should be called the L. Nottingham's Papers or Committee Papers, and the Committee desire directions. Revived and to sit tomorrow. L. Nottingham to have his Papers again."]—15 Dec. *E. Nottingham* reads a Paper, which is compared with the Narrative, and which his Lordship will bring fairer written tomorrow.—17 Dec. *E. Nottingham* brings the Paper fairly written, and it is read and agreed with the Paper he took away. He brings another Paper, which is read and compared with the Narrative. (Com. Book.)

‡ An entry in MS. Min. adds:—"Sir Thomas Duppa and Cooling [the Yeoman Usher] charged to acquaint the House so soon as the Commons come at any time."

§ The words here in square brackets are *noted* marginally as "not to be entered in the Journal."

a Committee be appointed to inspect the Journals concerning Free Conferences, and whether any have been desired with the Commons, wherein the House has not disagreed with them.* *Moved* to go into a further enquiry of the Papers and matters sent to the Commons. *Moved* to enquire concerning the anchoring or not anchoring after the fight with the French. *Moved* that a Committee of both Houses be appointed. *Proposed* to examine the whole business at a Committee as to the miscarriages and transactions at sea the last summer. Committee appointed. (MS. Min.; L. J., XV. 162.)

23 Dec. *E. Bridgewater* reported from the Committee to search Books that a time may be appointed for the Committee to sit again. *Ordered*, When they please. (MS. Min.)

29 Dec. Report made by *E. Mulgrave* from Committee appointed on the 22nd concerning Free Conferences, with Precedents (L. J., XV. 165, *in extenso*). The Precedents read. Moved to have a Free Conference, and that this matter be further enquired into. *Moved* to search whether it be regular what the Commons have done. After debate hereupon, a Committee appointed to inspect precedents whether the Commons' Resolution approving Admiral Russell's conduct, which was delivered at the Conference on the 21st, was according to the usual proceedings in Parliament, and to consider of Heads of what shall be offered at a Free Conference.† (MS. Min.; L. J., XV. 165.)

30 Dec. Report made by *E. Warrington* from Committee appointed yesterday, that they find the proceedings as to the Resolution not according to the usual practice, but that they had differed as to Heads for a Free Conference. After debate ‡[some words written down were read, to be offered at a Free Conference, and, after debate thereupon, the House agreed as follows, to be said by the Managers at a Free Conference:—"When their Lordships sent you down the Papers relating to the last Summer's expedition at sea, it was with an expectation to have some light in that matter from the information you might receive from some of your own members, which expectation of theirs has not been answered by the Vote you have delivered to their Lordships at the last Conference; the delivery of which Vote to their Lordships at the last Conference being a very unusual proceeding, because it was concerning a matter of fact only, without your having given the Lords any reasons which moved you to make the said Vote, and because many other things were contained in the said Papers, which might concern several others besides the person named in your Vote."] *Agreed* to resolve that the communication by the Commons of their Resolution, without reasons, was unusual. Message sent for a Free Conference. (MS. Min.; L. J., XV. 167.)

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* The proceedings of this Committee are thus recorded:—23 Dec., E. Bridgewater in the Chair. The Journals are sent for over, and some few of them looked into, and Papers put in, in order to acquaint the House with them.—24 Dec., E. Mulgrave in the Chair. Precedents of Aug. 9, 13, 31, and Sept. 1, 1660 (L. J., XV. 165, *in extenso*), considered and ordered to be reported. (Com. Book.)

† The proceedings of this Committee are thus recorded:—30 Dec., E. Warrington in the Chair. The Journals brought over are perused.—28 Dec., 1660. An Order was sent from the Commons for 10,000*l.* to the Queen of Bohemia. The Lords' concurrence not desired.—18 March 1667. A Message to the Commons to acquaint them that the Lords intend to adjourn, &c. [*Ordered*] to report that the Committee have inspected the Journals, but do not find that what was done by the Commons at the last Conference is according to the usual proceedings in Parliament. (Com. Book.)

‡ The words following in square brackets are expunged in MS. Min. and are noted marginally at the beginning, "No farther to be entered."

HOUSE OF LORDS MSS. 1692.

31 Dec. Message from the Commons that they will return an answer (MS. Min.; L. J., XV. 167).*

3 Jan. 1692–3. Message from the Commons agreeing to a Free Conference (MS. Min.; L. J., XV. 171).

4 Jan. Free Conference had and reported (MS. Min.; L. J., XV. 173). [This Conference, at which E. Rochester was spokesman, terminated the proceedings on this subject.]

7 Jan. House *moved* that a day may be appointed to proceed on further Advice to his Majesty, in relation to last Summer's expedition. House to be in Committee on the 10th. (MS. Min.; L. J., XV. 175.)

10 Jan. C. W. H. put off to 12th inst. (MS. Min.; L. J., XV. 178.)

12 Jan. House in Committee upon Advice to be given to the King, E. Bridgewater in the Chair. *Moved* that we have Cautionary towns in Flanders from the Dutch. That the King be moved that he ask Cautionary towns of the Spaniards. *Question* [proposed]: Whether the Advice about the Cautionary towns shall be general or particular? *Question* [put]: Whether the King shall be advised to ask Cautionary towns abroad, to be put into the English hands for the security of his troops in general? Resolved in the *Negative*. Contents 24; Not-Contents 36. Tellers: E. Manchester and E. Stamford. *Question* [proposed]: Whether the King shall be advised to ask for Ostend and Nieuport as Cautionary towns, to be put into the hands of the English for the security of his troops? House resumed. (MS. Min.; L. J., XV. 181.)

10 Feb. House *moved*, that the Heads of Advice to be given to his Majesty be read. *Ordered* that the Heads be considered tomorrow, and all the Lords to attend. (MS. Min.; L. J., XV. 223.)

11 Feb. Order of yesterday read. *E. Bridgewater* reported the following [further] Heads from C. W. H., viz.:—

That no foreigner shall be of the Board of Ordnance or Keeper of the Stores in the Tower of London.

That for encouragement of the English, there may not be so many strangers employed in the Office of the Ordnance. *Agreed to.*

Then this Head was read:—

That the Chief Officer of the Train of Artillery abroad be one of their Majesties' subjects.

Question put: Whether ("a subject born in their Majesties' dominions") shall be in the Head, instead of ("one of their Majesties' subjects")? Resolved in the *Negative*. Contents 26 (including 4 Proxies); Not-Contents 28 (including 4 Proxies). Tellers: E. Bridgewater and E. Marlborough. The Head read again. *Question:* Whether to agree with the Committee in the Head. Resolved in the *Negative*. Contents 32 (including 5 Proxies); Not-Contents 32 (including 4 Proxies). Tellers as before. A Committee appointed to draw an Address upon the Heads of Advice agreed to.† (MS. Min.; L. J., XV. 225.)

17 Feb. *E. Mulgrave* reported that the Committee had not yet drawn the Address, because they thought that the House might add

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* The Commons, on receiving the Lords' Message on the 30th for a Free Conference, refused to agree to it at the time by negativing the Previous Question by 78 votes to 61 (C. J., X. 765), and agreed to send this message, received on the 31st.

† This Committee met first on 13 Feb. (E. Mulgrave in the Chair), and on 15 Feb. (E. Shrewsbury in the Chair), but only to adjourn. On the 17th (E. Mulgrave in the Chair), a Preamble to the Address was agreed to, and ordered to be written over against the next meeting. (Com. Book.) Nothing further recorded.

something more to the Heads already agreed on. *Moved*, That those Forces the King leaves here be English. *Moved*, That his Majesty leave 20,000 Englishmen in England to guard the Kingdom. *Agreed*, that it be part of the Advice to his Majesty, that 20,000 English soldiers shall remain in England the year next ensuing, and to be under the command of an Englishman.* *Moved*, That it be part of the Advice to his Majesty, That men may not be pressed to sea, and then delivered out of ships to land service. *Referred* to the Committee to draw something to the effect of the debate concerning pressing men for land service, to be added to the Address of Advice. [That the Committee consider of drawing something concerning the Lieutenancy of London.]† (M.S. Min.; L. J., XV. 234.)

18 Feb. *E. Mulgrave* reported the Address of Advice (L. J., XV. 235. *In extenso*). The same agreed to and ordered to be presented to his Majesty. (MS. Min.; L. J., XV. 235.)

24 Feb. King's Answer to Address reported and ordered to be printed (MS. Min.; L. J., XV. 246, 247.)]

The Papers connected with the above proceedings are as follows, being divided below into Part I., relating directly to the Address of Advice, and Part II., relating to the enquiry into the naval miscarriages, viz. :—

PART I. (ADDRESS OF ADVICE).

(*a*) 1 Dec. 1692. Papers (2) delivered in this day by Mr. Blathwaite, Secretary to the Army, pursuant to Order of 29 Nov. (L. J., XV. 128), and referred to C. W .H. (MS. Min.), viz. :—

(*a*[1]) List of the General Officers, as follows :—

Comte Solms, General of the Foot,

D. Leinster, General of the Horse.

Lieutenants-General :—E. Oxford, Mons. Auverquerc, E. Portland, Thos. Talmash, Esq.

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* Originally ("of one of their Majesties' natural-born subjects").

† The entry in square brackets is expunged in MS. Min., and there is nothing further to support the statement of Ralph (ii. 396) that a motion made by, or at the instance of, Lord Warrington, that it might be part of the Address to advise the removal from the Lieutenancy of persons disaffected to the Government, was rejected. The House, however, the next day, after agreeing to the Address of Advice, made an order to consider the State of the Lieutenancy of the City of London on the 20th (MS. Min.; L. J., XV. 236).—On 20 Feb. the MS. Min. record as follows, the words in square brackets being expunged :—The Order read for considering the State of the Lieutenancy of the City of London this day. [Ordered, that the person be called in who delivered the Papers concerning the Lieutenancy. Declared to be a scandalous Paper, and that there shall be due enquiry made after the author of it, in order to be punished. A scandalous Paper, containing things that seem to anticipate the judgment of this House. Declared to be an insolent Paper, and seems to anticipate the Judgment of this House.] Upon the delivery of a Paper at the Door to several Lords, it was *Moved* that the Paper be read. After debate, *Question* put : Whether the House shall now proceed upon the business appointed for the day, before the Paper be read ? Resolved in the *Negative*. Contents 36 (including 4 Proxies) ; Not-Contents 44 (including 11 Proxies). Tellers : E. Feversham and L. Ashburnham. Then the Paper was read (L. J., XV. 238–40, *in extenso*). *Question* put : Whether this Paper is an insolent Paper ? Resolved in the *Affirmative*. *Mr. Cooling* (sworn) says, Wilmer delivered the Papers. He delivered one to me. *Mr. Windham* (sworn) says Wilmer delivered one to him. *Mr. Snow* (sworn) says he saw Wilmer deliver Papers. He knows he delivered Papers. *Ordered* that Wilmer be taken into custody by Black Rod, and brought to the Bar the next day." (L. J., XV. 240.) Nothing further recorded. Luttrell adds that Wilmer, whom he describes as a "Kidnapper," slipt away and escaped, and that the debate on the Lieutenancy was adjourned *sine die* (21 Feb.)

HOUSE OF LORDS MSS. 1692.

Majors-General :—Comte Nassau, Mons. Zulestein, Sir Henry Bellasis, E. Scarborough, D. Ormond, and L. Galway (Ireland).

Brigadiers :—L. Fitzharding, Col. Churchill, Col. la Meloniere, Col. Villiers, Sir Thos. Levingston, Col. Richd. Leveson, Mons. de l'Estang [l'Estrange in C. J., X. 565], Col. Ramsey, and Col. Boncour, and Sir John Hanmor and Col. Stewart (Ireland).

For the Danish Forces :—D. Wirtemberg, Lieut.-Gen.; Marquis de la Forest, Major-Gen.; and Col. Ellenberger, Brigadier.

Endorsed : No. 1.

(a^2) 1 Dec. 1692. List of all their Majesties' Land Forces upon the Establishment of England and Ireland. The List of Regiments is the same as that given in C. J., X. 712,* except in reading ("4 other Independent Companies and 1 Company of Invalides") instead of ("Company at Windsor, Upnor Company, New York Company, Company in Leeward Islands"), and adding the following Regiments, (*noted*, Ireland) viz. :—

Horse :—Col. Wolseley's Regiment.

Dragoons :—Col. Wynne's and Col. Echlin's Regiments.

Foot :—Col. Stewart's, Sir John Hanmor's, Col. Hamilton's, Sir Henry Bellasis', E. Meath's, Col. Coote's, E. Drogheda's, Col. Row's, Col. St. John's, Col. Michelbourne's, Col. Creighton's, Col. la Meloniere's, Col. du Cambon's, and Col. de Belcastel's Regiments.

This List also adds the names of the following Commanders, viz. :—

Horse :—E. Scarborough (1st Troop of Guards and Grenadiers).
D. Ormond (2nd Do.).
L. Colchester (3rd Do.).
E. Drumlangrig (Troop of Scots Guards).
E. Oxford (Royal Regiment).
Col. Lumley (Queen's Do.).
(Dutch) :—Mons. Auverquerc (Troop of Dutch Guards).
E. Portland (Regiment of Do.).

Dragoons :—Col. Mathew's (Royal Regiment).

Foot : †—D. Schonberg (1st Regt. of Guards, 4 Battalions).
Lieut.-Col. Talmash (Coldstream Guards, 2 Battalions).
Brigadier Ramsey (Regiment of Scots Guards).
L. George Hamilton (The Royal Regiment, 2 Battalions).
Col. Fitzpatrick (Royal Regt. of Fusileers).
(Dutch) :—Comte Solms (The Regt. of Dutch Guards, 3 Battalions).

The whole consisting of—

5 Troops of Horse Guards - -	1098		
23 Regiments of Horse - -	6525	7623	men.
7 „ Dragoons - - -		3440	„
65 „ Foot - - - } 6 Independent Companies of Foot }		53024	„
In all - -		64087	„

Endorsed : No. 2.

(b) Ordnance Office Papers, viz. :—

(b^1) 1 Dec. 1692. List of the Officers and Ministers belonging to the Office of their Majesties' Ordnance, with their respective yearly salaries and allowances: amounting in all to 13,484*l.* 5*s.* 6*d.*, as follows :—

* Namely, the List of Land Forces for 1693, laid before the House of Commons on 25 Nov. 1692. The above List differs in several particulars, owing chiefly to the changes in command, from the one for 1692 given in C. J., X. 547.

† Col. Beveridge's Regiment (C. J., X. 712) is here described as "The Regiment, late Col. Beveridge's."

	£	s.	d.
Lieut.-Gen. of the Ordnance.—Right Hon. Sir Henry Goodrick	800	0	0
Surveyor-General.—John Charlton, Esq.	400	0	0
Clerk of the Ordnance.—Sir Thos. Littleton, Bart.	400	0	0
Storekeeper.—*William Meesters, Esq.**	400	0	0
Clerk of the Deliveries.—Christopher Musgrave, Esq.	300	0	0
Treasurer and Paymaster.—Hon. Chas. Bertie, Esq.	500	0	0
Clerks to Lieut.-Gen.—John Blake (60*l.*), Robert Williamson (40*l.*)	100	0	0
Clerks to Surveyor.—Sam. Criche, Anthony Fist (each 60*l.*) and Sam. Wolrich (40*l.*)	160	0	0
Clerks to Clerk of the Ordnance.—John Whiteing (75*l.*), John Hooper (65*l.*), Wm. Phelps and Christopher Gardiner (each 50*l.*)	240	0	0
Clerks to Storekeeper.—John Allen, Abel Barton and John Blackler (each 60*l.*)	180	0	0
Clerks to Clerk of the Deliveries.—Nich. Whittaker (60*l.*), Thos. Smith (50*l.*)	110	0	0
Clerks to Treasurer of the Ordnance.—Edward Hubbald (80*l.*), Richd. Marriott (50*l.*), James Leece (40*l.*)	170	0	0
Deputy Keeper of the Armoury.—George Francklyn, Esq.	60	0	0
Armourers.—Richd. Hoden, Jeremiah Crawford, George Wright (each 26*l.*)	78	0	0
Keeper of the Small Guns.—Thos. Gardiner	80	0	0
Frobusher in the Tower.—George Fisher	30	0	0
Storekeeper at Chatham.—Nicholas Cheltenham	120	0	0
„ *at Upnor Castle.*—Capt. Robt. Mynors	80	0	0
„ *at Sheerness.*—Capt. Robt. Crawford	80	0	0
„ *at Woolwich.*—Thomas Peach	40	0	0
„ *of Saltpetre at Woolwich.*—Edward Hubbald	60	0	0
„ *at Tilbury.*—Francis Jordan, Esq.	100	0	0
„ *at Windsor Castle.* [Name not given]	50	0	0
„ *at Portsmouth.*—Francis Felton	120	0	0
Frobusher at Portsmouth.—John Silvester	40	0	0
Storekeeper at Plymouth.—Henry Hooke	40	0	0
„ *at Hull.*—William Idle	40	0	0
„ *at Berwick.*—Thos. Greive	30	0	0
Chief Engineer.—Sir Martin Beckman	300	0	0
Second Do.— Thos. Phillips, Gent.	250	0	0
Third Do.— Jacob Richards	150	0	0
Master Gunner of England.—Capt. Richard Leake	190	0	0
Mates.—Capt. John Leake, Thos. Dodge, Thos. Silver (each 45*l.* 10*s.*)	136	10	0
Yeoman of the Tents and Toyles.—Thos. Howard	20	0	0
Chief Bombardier.—George Brown	54	15	0
12 *Bombardiers*, at 36*l.* 10*s.* each. [Names not given.]	438	0	0

* This and the four other names below printed in italics appear as Foreigners in (b^6) below.

HOUSE OF LORDS MSS.

1692.

	£	s.	d.
Chief Petardier.—John Fawcett	54	15	0
4 *Petardiers* at 36*l.* 10*s.* each. [Names not given.]	146	0	0
Chief Firemaster.—*John Symon Schlundt*	150	0	0
Mate to Ditto.—*John Henry Hopeke*	80	0	0
Gentlemen Proof-Masters.—Sir Wm. Hartupp, Edwd. Littleton (each 20*l.*)	40	0	0
Fireworkers.—Jas. English, *Jacob Blagwitz, John Poolman*, John Baxter (each 40*l.*)	160	0	0
Waggon-Master.—George Barnard	100	0	0
Travelling Engineers.—Richd. Wharton, Talbot Edwards (each 100*l.*)	200	0	0
Clerk of the Cheque.—Mathew Blyton	60	0	0
Purveyor of the Ordnance.—Robt. Bennett	40	0	0
Messenger.—Edward Snapes	60	0	0
60 *Gunners* at 18*l.* 5*s.* each. [Names not given.]	1095	0	0
60 *Labourers* at 26*l.* each. [Names not given.]	1560	0	0
The Right Hon. Sir Henry Goodrick, Bart	300	0	0
John Charlton, Esq., Assistant and Deputy to Lieut. of Ordnance	300	0	0
Wm. Boulter, Esq., Assistant to the Surveyor	250	0	0
Purveyor.—William Willoughby	60	0	0
Storekeeper at Pendennis.—John Thorpe	40	0	0
Gentleman of the Ordnance.—William Hubbald	40	0	0
Storekeeper at Whitehall.—Peter Guenon Beaubusson	50	0	0
„ *at Jersey.*—Charles Dumerisque	40	0	0
„ *at Guernsey.*—William Le Marchant	40	0	0
„ *at Portsmouth Garrison.*—Walter Harford	40	0	0
Frobusher at Windsor.—Edward Wise	30	0	0
Gentleman of the Ordnance.—Nicholas Whittaker	40	0	0
Frobusher at Whitehall.—William Kemp	30	0	0
Storekeeper at St. James'.—John Marley	20	0	0
Overseer at Tilbury.—Francis Newby	40	0	0
Storekeeper at Berwick.—Thomas Greive	10	0	0
„ *of Plymouth Garrison.*—Henry Hooke	40	0	0
Astronomical Observator at Greenwich.—John Flampstead	100	0	0
Storekeeper at Carlisle.—George Longstaff	30	0	0
Engineer.—George Browne	100	0	0
Fire-master for the Fireships.—James English	60	0	0
Storekeeper at Tynmouth.—Edward Sisson	20	0	0
Waterworker.—Thomas Walford	25	0	0
Keeper of the Armoury.—George Francklyn, Esq.	70	0	0
Frobusher at Chester.—John Malbon	36	8	0
Storekeeper at Clifford's Tower, York.—David Lupton	20	0	0
Labourers at Sheerness.—John Eagle and John Chambers (each 26*l.*)	52	0	0
Storekeeper at Chester.—Richard Brampton	40	0	0
„ *at Margate.*—William Cooke	20	0	0
Chirurgeon.—Thomas Scele	26	0	0
Keeper of the Beds at Portsmouth.—Edward Harman	60	0	0

	£	s.	d.
Frobusher at Plymouth.—John Norman - - -	20	0	0
Gentleman of the Ordnance.—Edward Silvester -	40	0	0
Frobusher at Hull.— Thomas Carter - - -	36	10	9
Storekeeper at Bridlington.—Thomas Erett - -	20	0	0
Overseer of the Works at Hull.—Jonathan Jennings, Esq.* - - - - - - - - - -	45	12	6
Engineer.—Thomas Glover - - - - -	100	0	0
Proof-Master at Birmingham.—Thomas Rowney -	10	0	0
Clerk to the Storekeeper at Tilbury.—Thomas Hastler - - - - - - - - -	20	0	0
Extraordinary Clerks, viz.:—			
1 at 54*l.* 15*s.*—James Pendlebury - - -	54	15	0
1 at 40*l.*—Edward Silvester - - - - -	40	0	0
25 at 39*l.* each.—William James, Thomas White, Sam. Pelling, James Hodder, James Browne, John Roberts, Wm. Musgrave, Cuthbert Mashiter, Thos. Clarke, John Allen, Junr., Joseph Buckmaster, Miles Criche, Junr., Richard Blake, John Burton, Mathew Purcell, Edward Deere, William Wall, Jonathan Watson, John Barker, James Lloyd, Chas. White, Christopher Lister, John Dacres, William Hubbald, John Warfeild - - - - - - - - -	975	0	0

Signed as examined 30 Nov. 1692. Thos. Littleton, Cler. Ordn. *Endorsed* as delivered in this day by Mr. Charlton. No. 1.

(b^2) List of the Officers and Ministers, &c. of the Flanders Train, according to the Muster-roll taken upon their embarkation at Greenwich, 29 March 1692, with their pay *per diem*. The List forms a total of 295 (including 58 not named) officers and men,† with daily pay amounting in all to 46*l.* 12*s.* 5*d.*, as follows:—

Colonel, at 2*l.*—*John Wynant Gore* [William Wynant Goer in (b^6)].
Comptroller, at 3*l.*—*William Meesters, Esq.*
Lieut.-Colonel, at 19*s.*—Jacob Richards.
Major, at 16*s.*—*John Symon Schlunt* [Schlundt in (b^6)].
Capt.-Lieutenant, at 11*s.*—*Albertus Brielus* [Briellus in (b^6)].
Battery-Master, at 12*s.*—*Abraham Cock.*
Assistant, at 4*s.*—*John Geensoon.*
Adjutant, at 8*s.*—*Daniel Cattin.*
Quarter-Master, at 8*s.*—*John Van Scanternell.*‡
Chaplain, at 8*s.*—N. Clark.
Auditor, at 6*s.*—N. Watkins.
Paymaster (Edward Gibbon) *and Assistant*, 12*s.*
Master Surgeon (*John De Quavere*) [Quaviere in (b^6)] *and Assistant*, 10*s.*
6 *Gentlemen of the Ordnance*, at 7*s.* 4*d.*—Obadiah Field, George Lesley, Chas. Ball, Ralph Wood, *Henry Boesom*,§ *John George Brittenstin* [Brittenstein in (b^6)].

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* This name appears in (b^3) as that of the Paymaster of the Descent train.

† The names of those who appear in (b^6) as Foreigners are distinguished here by italics.

‡ Figures under the name of Schanternell as a Fireworker at 5*s.* a day in the Flanders Train List in (b^6), his place there as Quartermaster being taken by Leonard Vanderstam.

§ Figures under the name of Boesum as a Corporal to the Master Gunner at 2*s.* 6*d.* a day in the Flanders Train List in (b^6).

4 *Engineers*, at 10*s.*—*John Bott* [Boet in (*b*^{6})], *Isaac Cock*, *John Meauclere* [Mauclerir in (*b*^{6})], Michael Richards.
Petardier, at 6*s.*—*Abraham Boutcler* [Boukler in (*b*^{6})].
4 *Firemasters*, at 5*s.*—*Hans Buttolph* [Rodolph in (*b*^{6})] *Frydah*, *John Lodowick Schlunt* [John Schlunt in (*b*^{6})], *Joachim Doeling*, Dethrick Methelthin.
Engineer, at 10*s.*—John Glover.
4 *Bombardiers*, at 2*s.* 6*d.*—*John Conradi* [Conrade in (*b*^{6})] *Doeling* and 3 not named. [But see (*b*^{6}).]
2 *Commissaries of the Stores*, at 8*s.*—*Mathew Smalbeane* [Mathias Smalbeen in (*b*^{6})], *Adrian Koen.*
2 *Clerks of the Stores*, at 4*s.*—Thos. Edwards, *Hermans de Wijs* [Wÿse in (*b*^{6})].
Commissary of the Draft-horses, at 8*s.*—[Not named here. Mons. Chunsee in (*b*^{6}).]
19 *Conductors of the Stores*, at 3*s.*, viz.:—

Hendrick Loover [Lover in (*b*^{6})].
Thomas Fletcher.
Peter Vandenberg.
Samuel States [Stass in (*b*^{6})].
John Paul Volmer.
Isaac Doegan.
Conraate Van Balin [Conraett Van Baler in (*b*^{6})].
Cornelius Swoarthof [Swarthof in (*b*^{6})].
Mathew Crowne.
Christian Brawman.
John Tuckfield.
Jacobus MacCustion.
John Slater.
John Casare.
Bernardus Vander Veen [Van dervein in (*b*^{6})].
Lambert Westons [Lambart Kessings in (*b*^{6})].
Hendrick Covenard [Covennort in (*b*^{6})].
Derick Weltus [Derrick Welters in (*b*^{6})].
Alexander Eustace.

Conductor Plummer, at 4*s.*—*John Cleene* [Cleir in (*b*^{6})].
Master Tinman, at 5*s.*—Hermens Vander Krick.
2 *Tinmen*, at 3*s.*—Joost Van Bockhoven, Cornelius Verbeck.
Captain of the Tinboats, at 6*s.* 2*d.*—*Hermans Goosen* [Goeson in (*b*^{6})].
Assistant, at 3*s.*—*John de Boom.*
2 *Corporals*, at 2*s.* 6*d.*—*Cornelius Coverson* [Goverson in (*b*^{6})], *William Thomas* [Tomesin in (*b*^{6})].
40 *Private Men*, at 2*s.*—[Not named.]
Master-Gunner, at 5*s.*—Capt. Thomas Silver.
3 *Mates*, at 3*s.*—Jonas Watson, John Hollybone, William Gunn.
2 *Corporals*, at 2*s.* 6*d.*—*Peter Van Galmuyden*,* Aran Keysea.
40 *Gunners*, at 2s.—Viz., 24 with English names, and the rest, all in (*b*^{6}), as follows:—

†*William Drayton.*
†*John Ranton.*
†*Henry Pillaer.*
John De Reyter [Ryiter in (*b*^{6})].
Ver [Peircy in (*b*^{6})] *Van Kooter.*
Hermens [Hermanns in (*b*^{6})] *Lobbeck.*
John Voester.‡
John Gisbert.
Roliff Van Lieuwen [Roeleff Vanlever in (*b*^{6})].
Peter Bills.
Lawrance Adriens [Lawrence Adrians in (*b*^{6})].
Andrew Brant.

* Peter Van Guilmyden appears as a Gentleman of the Ordnance at 7*s.* 4*d.* a day in the Flanders Train List in (*b*^{6}).

† These three appear in (*b*^{6}) as Gunners on the Ordnance Establishment at 18*l.* a year, and Pillaer in the Flanders Train also.

‡ Appears as John Vooster, Bombardier, at 2*s.* 6*d.* a day, in the Flanders Train List in (*b*^{6}).

John Derrick Vander Vern.
Francis Cock.
Aron Cortleven [Arent Cortlever in (b^6)].
Simon Plempers [Plemper in (b^6)].

Serjeant of Miners, at 2*s.* 6*d.*—Peter Dulport.

9 *Miners*, at 1*s.* 6*d.*—Thos. Bonhomme, Baptist Tos, Francis Fountaine, Michael Hoopan, Joseph Viland, Robert Rubert, Alexr. Amant, Simon Matress, and one not named.

Waggon-Master, at 10*s.*—George Barnard.

2 *Assistants*, at 4*s.*—Charles Sharp, *Godfrid Franck.*

Captain of the Carpenters, at 6*s.* 3*d.*—*Jacob Jon Geneall* [Jongeneell in (b^6)].

2 *Mates*, at 3*s.*—Charles Hankinson, John Randall.

18 *Carpenters*, at 2*s.* 6*d.*—Viz., 7 not named and the following:—
Henry Lath.
Thomas Syms.
Peter Van Zutphen.
Gover Peters.
Hendrick Meeres [Meyr in (b^6)].
Jo^n Vander Vert [Ginbart Vander Voert in (b^6)].
Derrick de Groot.
Adolph de Haen.
Abraham Vanderstee.
Peter Van Yperen.
John Cramer.

Master Wheelwright, at 4*s.*—Richard Hack.

6 *Wheelwrights*, at 2*s.* 6*d.*—Robt. Needham, Thos. Banman, Michael Scott, Henry Knight, Robt. Sumpler, James Bootum.

Master Smith, at 4*s.*—Moses Jecock.

4 *Smiths*, at 2*s.* 6*d.*—Edw. Pittoway, Geo. Anderson, and 2 not named.

Master Cooper, at 4*s.*—Robert Cotter.

Cooper, at 2*s.* 6*d.*—Not named.

Tentmaker, at 4*s.*—John Beardsworth.

Assistant, at 2*s.* 6*d.*—Not named.

Master Collar-Maker, at 4*s.*—Samuel Maton.

6 *Collar-Makers*, at 2*s.* 6*d.*—Henry Langley, Robt. Keesey, Edwd. Reynolds, John Dunstone, Richd. Saunden, Richd. Pheby.

Kettledrummer, at 4*s.*—Fardinango Domingo.

Coachman, at 3*s.*—John Humphreys.

80 *Matrosses*, at 1*s.* 6*d.*—[All of them, with a few possible exceptions, have English names, and none are named in (b^6).]

Provost Marshall, at 3*s.*—John Cartwright.

2 *Assistants*, at 2*s.* 6*d.*—John Hill, George Benson.

Signed as examined 30 Nov. 1692. Thos. Littleton, Cler. Ordn. *Endorsed* as delivered this day by Mr. Charlton. No. 2.

(b^3) 1 Dec. 1692. List of the Officers, Ministers and Attendants of the Descent Train, according to the Muster-Roll taken upon their embarkation at Portsmouth 23 July 1692, with their pay *per diem*. The List comprises a total of 458 officers and men,* with daily pay amounting in all to 68*l.* 14*s.* 8*d.*, as follows:—

Colonel, at 2*l.*—Sir Martin Beckman.

Comptroller, at 1*l.*—*Capt. Henry Lamerson.*

Lieut.-Colonel, at 19*s.*—George Browne.

Major, at 15*s.*—*John Henry Hopke* [Hopeke in (b^6)].

Capt.-Lieutenant, at 10*s.*—*Leonard Vanderstam.*†

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* The names of those who appear in (b^6) as Foreigners are distinguished here by italics.

† Appears afterwards as Quartermaster in the Flanders Train List in (b^6).

HOUSE OF LORDS MSS.

1692.

Battery-Master, at 12*s.*—*Anthony De Young.*
Assistant, at 4*s.*—Echard Cock.
Quarter-Master, at 8*s.*—Matthew Purcell.
Chaplain, at 8*s.*—William Galloway.
Paymaster, at 8*s.*—Jonathan Jennings, Esq.
Assistant, at 4*s.*—George Spencer.
3 *Chirurgeons*, at 5*s.* 6*d.*—William Clerke, *James Benoyest* [Benoyt in (*b*[6])], Francis Tomkyes.
Assistant Do., at 3*s.*—James Bayley.
Adjutant, at 8*s.*—*Claudius Testefoyle* [Testefoile in (*b*[6])].
8 *Gentlemen of the Ordnance*, at 7*s.* 4*d.*, viz. :—
Erick Schelder [Schilder in (*b*[6])].
Thomas Dilke.
Daniel Harang [Harrangue in (*b*[6])].
Thomas Holman.
Thomas Wheeler.
Col. Wm. Legg.
Robert Gibbons.
Capt. Geo. Goodrick.
Chief Engineer, at 19*s.*—*Wolfgang William Romer* [Colonel in (*b*[6])].
11 *Engineers*, at 10*s.*, viz. :—
Theodore Du Ry [Dury in (*b*[6])].
Peter Carloss [Carles in (*b*[6])].
**Christian Lely.*
John Gobett.
Francis Cadoule.
Jean Chardellan [Chardellon in (*b*[6])]
Lewis Pettitt [Petit in (*b*[6])].
George Conrady [Conradi in (*b*[6])].
Alexr. Martinery.
‡*Eliazer Menting.*
Nicholas De Bunne [Le Burne in (*b*[6])].
2 *Peturdiers* :—Capt. Wm. Wood (6*s.*); William Wood (2*s.* 6*d.*).
2 *Firemasters*, at 1*s.*—Capt. Thomas Browne, John Baxter.
17 *Fireworkers*, at 5*s.*, viz. :—
Zachariah Smith.
William Wilke.
Thomas Haydon.
Andrew Hydman [Hideman in (*b*[6])].
John Browne.
William Busfeild.
Isaac Poth.
Josias Du Faux [Far in (*b*[6])].
Joachim Miller [Muller in (*b*[6])].
Ulrick Suyck.
John Schint.
Charles Kildare.
George Warwick.
Wilk Hendrick.
John Logan.
John Winskell.
Christian Zeagart [Andrew Zeagard in (*b*[6])].
30 *Bombardiers*, viz., 11 at 2*s.* 6*d.* and 19 at 5*s.*—All but *Cornelius Ambross*, *Joseph Gover*, and perhaps Stephen Lancelas, have English names.
Waggon-Master, at 10*s.*—William Barnes.
Assistant, at 4*s.*—John Waite.
3 *Commissaries of the Stores*, at 8*s.*—Sam. Pelling, *John Silvester*, David Lewis.
2 *Clerks of the Stores*, at 4*s.*—Lawrence Hardwick, Thomas Rashell.
2 *Conductors of the Woolpacks*, at 8*s.*—*Jaques Ricautier* [Ricauter in (*b*[6])] *Paul Robert La Molin* [Le Molin in (*b*[6])].
4 *Conductors of the Horses*, at 3*s.*—Hugh Lake, John Evans, Robt. Coleburne, William Lightfoot.
Commissary of the Draught-horses, at 8*s.*—Daniel Sherrard.
Assistant, at 4*s.*—Thomas Hall.

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* Mentioned in the Ordnance Office List in (*b*[6]), and noted there as gone to the West Indies.

Purveyor, at 8*s.*—Capt. Godfrey Richards.
Assistant, at 3*s.*—William Stannus.
20 *Conductors of the Stores*, at 3*s.*—All except John Prevarino, James Beck, Peter Cauch, Charles Eman, and Evan Protheroe have clearly English names.
Captain of the Bridge-boats, at 6*s.*—*Govert Van Erpe.**
Assistant, at 3*s.*—William Bridgeman.
2 *Corporals*, at 2*s.* 6*d.*—Richard Barker, Henry Williamson.
8 *Bridgemen*, at 2*s.*—All English names but Paul Jacobs.
Master Tinman, at 5*s.*—George Fawcitt.
2 *Servants*, at 3*s.*—James Clayton, Nicholas Curtis.
Master Gunner, at 5*s.*—Thomas Martin.
3 *Mates* [Pay not stated].—Thos. Dodge, John Molledge, Abel White.
85 *Gunners*, at 2*s.*—Including *Peter Guichett.*† The rest are English names, except perhaps Henry Amore, John Handkerson, Nicholas Dory, Jasper Gaunt, and Francis Hensman.
90 *Matrosses*, at 1*s.* 6*d.*—All English names, except perhaps Claudius Rogers, William Putt, John Gaunt, John Kirke, Erasmus Peters, and Philip De Cane.
Basket-Master, at 3*s.*—Nicholas Benson.
Assistant, at 2*s.*—John Benson.
Provost Marshall, at 3*s.*—Thomas Glendall.
2 *Assistants*, at 2*s.* 6*d.*—Charles Burrowes, William Moore.
Master Carpenter, at 4*s.*—John Cooper.
21 *Carpenters*, at 2*s.* 6*d.*—All English names, except perhaps Thomas Legoe, Wm. Sarrason, Cornelius Curtis, Matthew Pybus and John Pybus.
11 *Wheelwrights*, at 2*s.* 6*d.*—All English names.
Master Smith, at 4*s.*—Christopher Dixon.
Master Wheelwright, at 4*s.*—Thomas Boreman.
7 *Smiths*, at 2*s.* 6*d.*—All English names, except perhaps Charles Javenes.
Master Farrier, at 4*s.*—Richard Marshall.
3 *Farriers*, at 3*s.*—All English names.
Master Collar-Maker, at 4*s.*—Roger Tupper.
2 *Collar-Makers*, at 2*s.* 6*d.*—Both English names.
Master Tentmaker, at 4*s.*—John Gilbert.
Assistant, at 3*s.*—Edward Lambert.
Master Cooper, at 4*s.*—William James.
Cooper, at 2*s.* 6*d.*—Henry Abbott.
9 *Serjeant-Carters*, at 2*s.*—All English names.
73 *Drivers*, at 1*s.* 6*d.*—All English names, except perhaps Sam. Hust, Manus De Vince and John Beck.

Signed as examined, 30 Nov. 1692. Tho. Littleton, Cler. Ordn. *Endorsed* as delivered in this day by Mr. Charlton. No. 3.

(b^4) 1 Dec. 1692. Proportion of Stores for the Flanders Train, pursuant to King's Warrant of 27 Feb. 1691–2. 10 Pages. Page 1 contains the said Warrant to Sir Henry Goodrick and the other Principal Officers of the Ordnance, requiring them to provide, for immediate transport to Flanders, the Brass Ordnance and Stores, &c., as mentioned in the List subjoined, and to advance out of moneys to be issued from the Treasury, the necessary sums for paying the Officers and Ministers

* Described in (b^6) as Capt. of the Tinboats, at 6*s.* 2*d.*
† Mentioned in Ordnance Office List in (b^6) as a Gunner at 18*l.* a year.

HOUSE OF LORDS MSS. 1692.

of the Train, as set out in a List annexed (pp. 197–8). *Signed* WILLIAM, R.; Countersigned NOTTINGHAM. Then follows the List entitled "Proportion of Field Artillery for the year 1692. For Flanders." The Brass Ordnance consists of the following, mounted on travelling carriages complete:—

8 Demiculverins - with 3,200 round shot, and 160 tin cases with musket shot.

10 Sakers - - „ 4,000 Do. „ 200 Do.

*20 Three-pounders - „ 4,000 Do. „ 200 Do.

4 Eight-inch howitzers, with Necessaries as follows:—200 Bombs, 60 Carcasses, 80 Do. Cartridges, and 300 Fuzes for grenadoes.

Details are also given of spare travelling-carriages, wheels, limbers, axletrees, ladles, sponges, &c., for the above, and of a variety of other necessaries, including 600 barrels of gunpowder, 200 barrels of corn powder, 360,000 flints, 4,000 hand grenades, 2,000 match muskets, 2,000 Snaphance muskets, 40 tin-boats, 200 close and open wagons, and all the horses necessary are to come from Holland. *Signed* WILLIAM, R. *Countersigned* Tho. Littleton, C. Musgrave, Wm. Boulter, Jos. Charlton. *Endorsed* as delivered in this day by Mr. Charlton. No. 4.

(*b*[5]) 7 Dec. 1692. Vellum-bound Book containing a State of the Ordnance, carriages, mortar-pieces, granadoe shells, shot, powder, armour and arms, and other the most principal species of stores, at the several places within mentioned. The returns relate to Berwick, Carlisle, Chatham, Chester, Guernsey, Hull, Jersey, Pendennis, Plymouth, Portsmouth, Sheerness, Tilbury, Tinmouth [? Tynemouth], the Tower, Upnor and Woolwich.

(*Ordnance and Shot*):—

	Ordnance.				Shot.	
——	Brass.	Iron, Nealed and Turned.	Iron, Rough.	Total.	Round.	Double-headed Hammer.
Cannon of 8 - -	1	—	—	—	337	—
Cannon of 7 - -	146	46	146	338	17,022	5,304
Demi-cannons -	23	22	335	380	673,431	12,550
24-pounders - -	47	36	86	169	21,352	5,859
Culverins - -	72	94	482	648	80,078	15,545
12-pounders - -	57	26	226	309	60,553	7,144
Demi-culverins -	83	153	670	906	137,950	14,088
8-pounders - -	3	—	134	137	25,007	—
6-pounders - -	26	64	203	293	14,077	—
Sakers - - -	60	29	217	306	87,649	—
Mynions - -	8	—	163	171	40,570	—
3-pounders - -	30	18	88	136	25,929	—
Falcons - - -	13	—	59	72	53,367	—
Falconets - -	32	—	17	49	58,784	—
Robinets - -	5	—	—	5	26,274	—
Cashees - - -	2	—	—	2	—	—

Tin-cases filled with musket shot for—

24-pounders - -	170	Sakers - - -	6,699
Culverins - - -	443	Mynions - - -	668
12-pounders - -	175	3-pounders - -	521
Demi-Culverins - -	8,690		

* This corrects the "23 pounders" in *Luttrell*, 1 March 1692.

Similar details follow as to travelling, standing, and ship carriages and also ladles, sponges and cases of wood for the Ordnance.

(*Mortar-pieces and shells, &c.*) :—

Mortar-pieces 18½ to 4½, Details showing total of - - 61.
„ 18½ to 8⅝, Carcasses of hammered iron for, - 870.
„ 18 to 4, Granadoe Shells for, - - - 28,937.

Besides 109,717 hand-grenadoes.

(*Powder, &c.*) :—

Corn-powder, 27,001 barrels, 46 lbs.
Match, 90 tons 4 cwts. 3 qrs. 20 lbs.

(*Shot for Muskets, &c.*) :—

For Muskets 96 tons 13 cwt. 2 qrs. 22½ lbs.
„ Carbines 27 „ 18 „ 2 „ 0 „
„ Pistols 35 „ 12 „ 2 „ 9 „
Sheet lead 27 „ 7 „ 3 „ 12 „

(*Arms*) :—

18,317 Pikes (Long, ¾ and Short); 746 Bills, 2,331 Hatchets, 4,867 swords, 3,195 hangers.
Muskets, viz., 4,515 Matchlocks, 20,068 Snaphances, besides 10,233 Bandoleers and 8,724 Cartouch-boxes.
Bayonets, 6,808; Belts, 14,245, Frogs, 15,614.
Carbines, 5,992; Belts, 3,575, Swivels, 3,601.
Pistols, 2,339 ½ pairs; Holsters, 4,534 pairs.
Musketoons, 1,040.
Blunderbusses, 311.
Flints, 340,760.

(*Defensive Armour*) :—Ordinary, Musket-proof, Carbine-proof, Pistol-proof, &c. Various details.

(*Principal Stores*) :—Details as to Crows of Iron, Tackle hooks, Linch-pins, &c., too unimportant to enumerate.

Dated Office of Ordnance, 7 Dec. 1692. *Endorsed* as brought in by the Officers of the Ordnance this day.

(b^6) 7 Dec. 1692. List of all such Foreign Officers, Ministers, and Attendants as are now upon (i) the Establishment of the Office of Ordnance in the Tower, and (ii) the Field-Train now in Flanders, as also (iii) of those that were employed in the Descent-Train, broken 31 Oct. 1692, with their respective pays. The three Columns are thus composed :—

i. (Ordnance Establishment). Contains 11 names, all marked by italics in previous Lists, viz. : 5 in the Ordnance Office List in (b^1), 3 in the Flanders Train List in (b^2), and 3 in the Descent Train List in (b^3). *See* Notes to those Lists.

ii. (Flanders Train). Contains the 66 names marked by italics in the Flanders Train List in (b^2), with some variations in spelling there noted, besides the Master-Surgeon's Assistant (unnamed both in (b^2) and here), and also the 46 following :—

Quarter-Master, at 8*s.* a day.—Leonard Vanderstam. [See also (b^3) and note.]
Gentleman of the Ordnance, at 7*s.* 4*d.* a day.—Peter Van Guilmyden. [See also (b^2) and note.]
Fireworkers, at 5*s.* a day.—John Albreet Chards, Albert Borgarett, Hendrick Frost, David Sundt, Clajus Hanleck, John Grubiere.
Bombardiers, at 2*s.* 6*d.* a day.—John Speiker, Voest Romer.
Conductors of the Stores, at 3*s.* a day.—Gereatrick Johnson, Jacobus Van Harwarden, Wessell Allart.
Lieutenant of Tinboats, at 4*s.* a day.—William Van Erp.
Corporal of the Tinboats, at 2*s.* 6*d.* a day.—Seveing Cornellus.

20 *Private-men for Ditto*, at 2*s.* a day. [Not named.]
Carpenters, at 2*s.* 6*d.* a day.—Harman De Jager, William Somins, John Clatcrenboss, Cornelius Van Loverden, Hendrick Splinter, John Van Room, John Van Cleft.
Commissary of the Draught-horses, at 8*s.* a day.—Mons. Chunssee.
Gunners, at 2*s.* a day.—Rament Preduay, Gisbert Van Doren, Jacob Smith.

iii. (Descent Train). Contains 35 names, viz.: Isaac François, Engineer (not in (b^3)), and all the names marked by italics in (b^3) except Christianus Lely and Eleazer Menting, who are noted here as gone to the West Indies.

Dated Ordnance Office, 7 Dec. 1692. *Signed* as examined 6 Dec. Tho. Littleton, Cler. Ordn. *Endorsed* as brought in this day.

(*c*) Letter from Sir Joseph Williamson to M. Halifax. Has received their Lordships' order of yesterday for sending to the House the regulations for posting and ordering the troops and officers that were in the Low Countries in 1677 or 1678. Remembers there were some points settled in those years, relating to something of the kind; but the entry-books of those years were left by him to his successor in the office, when giving up the seals to the King in 1678–9, and were not since brought into the office of Papers of State. Beseeches his Lordship to return this for him, in obedience to their Lordships' commands. *Dated* Jermyn Street, 30 Nov. 1692.

PART II. (NAVAL MISCARRIAGES).

(*a*) 2 Dec. 1692. Account of the Orders given to the Commissioners of Transportation, relating to the providing transport ships for the Descent, and when ready (10 pages). This Account, being a Return to an Order of 29 Nov., begins by reciting the receipt on 5 March of an Order from E. Nottingham, to provide (1) Shipping for 3,500 men and 380 horses, to be at Kinsale at the end of March, and (2) Shipping for 4,000 men and 1,500 horses, to be ready in the Thames by the end of April. (*See* C. J., X. 715, No. I.)

Part I. of this Account, which concludes by stating that the Order of 5 March concerning ships in the Bristol Channel was performed, recites in proof of that statement, various Orders, &c., the substance of which is as follows:—

March 28. E. Nottingham informed that ships are ready at Bristol and Bideford. Order from him to embark them on 15 April. (C. J., X. 715, Nos. II. and III.)*

April 1. Said ships demand convoy (*Ib.* 715, No. IV.)—Requested Admiralty to provide one. (*Ib.* 715, No. V.)

April 7. E. Nottingham writes that the *Richmond* is appointed. (*Ib.* 715, No. VI.)

April 15. Order from Council to send shipping to Cork for 250 horses. (*Ib.* 715, No. X.)

April 16. Advice from Bristol that the owners of the 3 provision ships for Ireland could not get seamen, owing to reports from the Downs of impressments. (*Ib.* 715, No. XI.) — Six transports sailed from Bideford to Milford without convoy, to join the *Richmond*. (*Ib.* 715, No. XII.)

* The references to the Commons' Journal indicate the portions set out in the Report of the Commons' Committee.

April 20. Queen's Order, per E. Nottingham, that the ships should sail to Waterford, instead of Cork, and then return to Bristol. (*Ib.* 715, No. XIV.)—Notice to correspondents to prevail upon the transport masters to sail to Waterford without convoy, their Majesties insuring their ships against the enemy. (*Ib.* 715, No. XV.)

April 26. The rest of the ships from Bideford, and the 3 provision ships from Bristol, sailed to Waterford without convoy. (*Ib.* 716, No. XVI.)

May 23. 52 transports, with 5 regiments of foot, &c., arrived from Ireland at Bristol. (*Ib.* 716, No. XIX.)

*May 26. Informed correspondent at Bristol that all the transports with troops, &c., from Ireland, were to come round to Portsmouth, (*Ib.* 716, No. XX.), and prayed the Admiralty to appoint a convoy. (*Ib.* 716, No. XXI.)—The Admiralty replied that they had directed Admiral Russell to send a convoy to Bristol, which orders were likewise sent to the *Dolphin* in Kingroad, the *Richmond* being otherwise disposed of.

June 8. Their Bristol correspondent desired them to represent the smallness of the *Dolphin*, as a convoy for so many ships, she having but 26 guns and 100 men, and the coast being grown very dangerous by French and Irish privateers.

June 10. Express from same, that the transport masters of Bideford would all return home; that they demanded a stronger convoy, to tarry for it at Milford, not to have their men pressed, and to have the Admiralty's protection for every ship, and had signed a Petition to that effect to the Admiralty.

June 11. Wrote to correspondents at Bristol and Bideford to inform the transport masters that they should have a stronger convoy at Milford and a month's pay, as soon as they came to Portsmouth, and that their men should not be pressed there, desiring them to persuade them to sail to Milford, otherwise to protest against them for all damages to the service.

June 13. Advice from Bristol correspondent, that 15 of the transports were got into Kingroad, and hoped the rest would be there the next day, being satisfied with the above letter.

June 24. Express from Milford correspondent of the 22nd, giving account of the insolence of the privateers on that coast, and that the transport masters refused to come about land without a stronger convoy. Laid same before the Admiralty.

July 9. Advice from Capt. Atkinson that the Bideford ships and artillery ships arrived from Milford the day before (C. J., X. 716), but that the artillery ships, which were taken up by the Ordnance Officers in Ireland, were in extreme want of all things necessary for them to proceed on their voyage, which he had directed them to take up there, and intended to draw upon the Transport Commissioners for the money, which they promised him to pay, that the service might not stop, though they were not under their care or cognizance, being in contract with the Ordnance officers.

Part II., which begins at this point, states that the second part of the Order of 5 March, relating to shipping in the Thames, was complied with as follows:—

Directions sent, on receipt of said Order, to Ostend, for the ships which had carried thither the 4,500 Danes from Ireland to come to the

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* *See* also, from this date, under Head X. (TRANSPORTS FOR DESCENT) in Papers (*b*) to (*k*), Part II., below.

HOUSE OF LORDS MSS. 1692.

Downs to ship 4,000 foot from the Thames. (C. J., X. 715, No. V.) They arrived there 3 April, when most of their seamen were pressed from them, and the ships in great danger to be lost for want of hands. Meanwhile, the Commissioners proceeded to hire ships for the 1,500 men mentioned in the first Order, and had taken up 2,170 tons of shipping for that purpose. (*Ib.* 715, No. IV.)

April 12. Order from E. Nottingham to provide shipping for the Ordnance Officers and Victuallers of the Navy. (*Ib.* 716, No. IX.)

April 25. E. Nottingham let them know that the draught of water for the transports in the Thames was not to exceed 12 ft., that they might take the ground, if occasion should be, but the ships to be of as big burden as possible. The Commissioners had then taken up upwards of 6,000 tons of shipping to carry horse, &c., besides the said ships from Ostend.

May 23. Order from E. Nottingham to direct the masters of the ships, that brought 3 regiments of foot from Leith, to land their men at Gravesend, and after taking in provisions for the like number, to fall down with all speed to the buoy of the Nore, and sail from thence to Holland under convoy, which they did.

June 3. Order from E. Nottingham to hasten transports to Portsmouth, and ascertain from Ordnance Officers and Navy Victuallers when their stores would be on board. (*Ib.* 716, No. XXII.)

June 4. Ordnance officers replied that they could not prefix a time, till they were furnished with 3 ships more, which was done the same day. Victuallers replied that their ships might be laden in a week, if want of money did not hinder, but that the masters of the vessels already laden refused to sign their bills of lading, till they had received a month's pay in hand, as promised. (*Ib.* 716, Nos. XXIII.–XXVI.)

June 11. Queen's Order, per E. Nottingham, to send all the transports in the Thames for Portsmouth to the Hope. Orders sent accordingly, but transport masters alleged they could not sail for want of seamen, who had been prest, and others were not to be got at any rates, for want of their month's freight, which ought to be advanced them by their contracts, before they sailed. (*Ib.* 716, No. XXVIII.)

June 15. Order from E. Nottingham to stop the Scotch ships coming from Williamstadt at the Nore, and contract with them to serve by the month, if they should be ordered to Portsmouth; that the ships should be ordered to fall down, and an account brought every time that they did so.

June 18. Informed E. Nottingham that the ships had been sent to the Hope. (*Ib.* 716, No. XXXIV.)

June 22. Queen's Order, per E. Nottingham, to recall from the Hope to Deptford enough ships to embark there L. Galway's and Col. Langston's regiments of horse for Holland, and to send the other transports to Portsmouth, to sail as soon as convoys were ready. (*Ib.* 716, No. XXXV.)

June 25. Queen's Order, per E. Nottingham, for one of the Commissioners to go down with the transports and shallops as far as the Nore, and take care that no time should be lost in their sailing thither.

June 28. The shallops or well-boats sailed from Deptford, and the same day Capt. Nicholls went to Gravesend to hasten them away.

June 29. Letter from Capt. Nicholls advising the Commissioners to let the Admiralty know, that no man-of-war at Sheerness or the Nore was ordered to take charge of the transports and boats, and that if the convoys had been ready, they might have got over the flats that day or

the next and have had a quick and smooth passage to Portsmouth. (*Ib.* 716–17, No. XXXIX.)

Dated Transport office, 1 Dec. 1692. *Signed* Samuel Atkinson, Robert Henley, John Ellis.

July 7. Letter from Capt. Nicholls, whom E. Nottingham had ordered to see the transport fleet and well-boats to the Downs, dated Deal, the 5th, that some of the transports were got into the Downs, but that the *London Merchant*, their convoy, sailed so heavily, she could get no further than the buoy of the Red Sand; that the *Reserve* frigate, he was told, was ordered to join the *London Merchant*, in case the *Breda* could not reach the Downs in time to convoy the ships to Portsmouth; but that he thought there ought to be added to them two fifth or sixth rates, that were clean and sailed well, because if any French men-of-war or privateers should see so great a fleet of small ships, they might pick out some of them and carry them away; which Letter the Commissioners laid before the Admiralty.

July 9. Advice from Capt. Atkinson, at Portsmouth, that the Bideford and artillery ships arrived from Milford the day before. (*Ib.* 716.)

July 10. The transports and well-boats sailed from the Downs towards Portsmouth. (*Ib.* 717, No. XLV.)

July 10. Advice from Capt. Atkinson at Portsmouth, that several of the ships come from Ireland with artillery were in great want of sails, anchors and cables, and could not proceed without them.

July 16. List sent by Ordnance Officers of 13 ships, taken up by their Officers in Ireland, then at Portsmouth, that were in great want of money to furnish them with necessaries, which the Commissioners were desired to supply them with.

July 18. All the transports arrived from the Downs at Portsmouth. (*Ib.* 717.)

July 20. Advice from Capt. Atkinson at Portsmouth that he had ordered the said artillery ships to take up what they wanted for their repairs, and intended to draw on the Commissioners for the money, which they promised to pay, that no time might be lost.

July 22. The Foot began to be shipped at Portsmouth, and were all shipped the next day, but, the wind being contrary, the Horse were not shipped till the 25th, and D. Leinster embarked that night on board the *Breda*.

Dated Transport Office, 2nd Dec. 1692.* *Signed* as above.

Endorsed as brought in this day.

(*b* to *k*). 3 Dec. 1692. Papers (9) brought in from the Lords of the Admiralty this day, viz.:—

Copies of Admiralty Orders, as follows:—

(*b*) Orders (14) to Carter and others, April 2 to 21.
(*c*) „ (2) to Russell and Carter, April 22, 23.
(*d*) „ (2) to Russell and Delavall, April 24, 26.
(*e*) „ (23) to various persons, April 27 to June 3.
(*f*) „ (20) to ditto, June 6 to July 22.
(*g*) „ (3) to ditto, July 24, 27.

Copies of Letters from Admiral Russell to Admiralty, as follows:—

(*h*) Letters (21) from May 5 to June 9. Book *noted* No. 3.
(*i*) „ (10) from July 24 to Aug. 14. ditto No. 5.
(*k*) „ (6) from Aug. 17 to 28. ditto No. 6.

* A duplicate of the above Paper, but dated 16 Nov. 1692, appears to be among the Treasury Papers. *See* Calendar of Treasury Papers, Vol. I., p. 265, where the first entry only is given.

HOUSE OF LORDS MSS. 1692.

The above 9 Papers being very voluminous, a Digest of them is subjoined, with a view to brevity and convenience, under the following Heads:—

I. MAIN FLEET (COMPOSITION AND CONDITION).
II. MAIN FLEET (MOVEMENTS).
III. PARTICULAR SERVICES.
IV. MANNING THE FLEET.
V. VICTUALLING.
VI. PAYMENT OF SEAMEN.
VII. ADDRESS OF LOYALTY.
VIII. OFFENCES; COURTS MARTIAL.
IX. APPOINTMENTS AND PROMOTIONS.
X. TRANSPORTS, ETC. FOR DESCENT.
XI. MISCELLANEOUS.

(I) MAIN FLEET (COMPOSITION AND CONDITION).

(Strength as first appointed):—

April 22 (*c*). *Admiralty to Russell.* Enclose List, arranged according to rates, of 90 "Ships for the Main Fleet," appointed this day to be under his command. The ships are those included in the Line-of-Battle of May 14 (*see* Tables on pp. 227–9), omitting the *Rupert* (3rd rate), the *Crown*, *Advice*, *Ruby*, *St. Albans* and *Tiger* Prize (4th rates), the *Adventure* (5th rate), and the *Half-Moon*, *Cadiz Merchant*, *Thomas and Elizabeth* and *Hawk* (Fireships), but adding the following:—

5th rates.	6th rates.	Hospital Ships.
Portsmouth.	*Sandadoes.*	*London Merchant.*
Charles, galley.	*Greyhound.*	*Bristol.*
James, galley.	*Lark.*	*Society.*
Sheerness.	*Salamander*, bomb-vessel.	*Concord.*
	Fubbs, yacht.	

Line of Battle (English):—

May 5 (*h*). *Russell to Admiralty.* Encloses Line-of-Battle, according to List received, and has marked such ships as are not with him, or not in a condition to sail. [This List is headed "The Line-of-Battle, the English to lead with the Larboard, and the Dutch with their Starboard tacks on board," and consists of seven columns, giving (1) Fireships and Small Frigates, (2) Rates, (3) Ships, (4) Men [*i.e.* Complements], (5) Guns, (6) Division, (7) Squadron. The 85 ships in this List, which are arranged in Divisions of Squadrons, are the same as those given in the Line-of-Battle of 14 May (*see* Tables on pp. 227–9), except that there are blanks for the names and complements of two 50 gun 4th rates in each of the two Divisions of the Vice Admiral and the Admiral of the Blue, instead of the *Chatham* and *Advice* in the former Division and the *Adventure* in the latter; that the *Crown* and *Tiger* Prize (4th rates) and the *Hawk* Fireship are omitted in the Division of the Rear Admiral of the Blue; and that the *Chatham* (4th rate) appears in the Division of the Rear Admiral of the Red instead of the *Ruby* and *St. Albans* (4th rates). The *Monck*, *Plymouth*, *Chatham*, *Cornwall*, *Breda*, and *Devonshire* are noted "Not here," the complements of the last three being left blank, and the *Royal Oak* and *York* are noted "At Sheerness; wants men." The Rates, Complements and Guns will be found in the Table referred to above. As regards the fireships, the complements and guns are not stated.]

(*Ships added*) :—

May 7 (*e*). *Admiralty to Russell.* It being thought fit to strengthen his Fleet, until the ships mentioned in his Instructions, which are not yet ready, and the remainder of the Dutch men-of-war, which are not yet arrived, shall join him, he is to take 13 ships and 4 fireships under his command, on meeting with them, until further orders, and when sailing westward, to leave orders in the Downs for such of the ships, not with him, as shall come thither, to follow him to such place as he shall think fit, signifying to their Commanders to which Division he shall appoint them.*

The ships, &c. are as follows :—

3rd rate.—*Rupert.*

4th rates.—*Crown*, *St. Albans*, *Advice*, *Tiger* prize, *Ruby* and *Dragon.*

5th rates.—*Falcon*, *Adventure*,† *Mary* galley, *Charles* galley, *Virgin* prize and *Milford.*

Fireships.—*Thomas and Elizabeth*, *Cadiz Merchant*, *Half-Moon* and *Hawk.*

[The *Charles* galley has appeared already in the List of April 22, and the *Rupert*, *Thomas and Elizabeth*, *Cadiz Merchant*, and *Half-Moon* in the Line-of-Battle of May 5.]

(*Ships left behind*) :—

May 7 (*h*). *Russell to Admiralty.* . . . The *Oak*, *York*‡ and 2 fireships are left behind.

(*Repairs : Royal Charles and Royal William*) :—

May 9 (*h*). *Russell to Admiralty.* . . . "Unless care be taken to make the *Royal Charles* broader in her rebuilding than she was with her late girdling, she will be spoiled, or, as I fear the *Royal William* must be served, when she returns, viz. girdled, which may be prevented, if timely taken care of" . . .

(*Hospital Ships*) :—

Russell to Admiralty, viz. :—

May 9 (*h*). "We have not any of the hospital ships with us."——May 15 (*h*). "Here is but one hospital ship, and the Commander tells me they have neither beds nor surgeon's chest, so that she is of no use, and those are ships highly necessary."——May 17 (*h*). Must again ask that the hospital ships may be hastened. In many respects they will be wanting, as after a battle, to receive the sick, &c., who, if kept on board the Fleet, may bring the plague. The Mayor of Portsmouth was with him this morning on behalf of that town and Gosport, which places are so badly off for sick quarters, that the people are no longer able, though willing, to receive the men put on shore. They bring such who live on credit for necessaries to supply those poor men when sent ashore, and their wants are so great, that they could hardly be prevailed with to receive the few now sent, fearing that the Christmas quarter in 1690, due to them, is postponed, because later quarters have been discharged, and that left unpaid. Some money and some assurance of more in a reasonable time may put life to a piece of service so necessary as this appears to be.§ [*See* also under VICTUALLING.]

* Admiral Russell writes on May 13 (*h*) :—"I have given the necessary directions to the Flag-Officers about settling their divisions."

† The *Adventure* is classed as a fourth-rate in the List in Somers' Tracts.

‡ The *Royal Oak* and *York* both appear in the Line-of-Battle of May 14, but without any men "actually on board."

§ *See also* Calendar of Treasury Papers, Vol. I., p. 239, under date 27 May, 1699.

HOUSE OF LORDS MSS. 1692.

Line-of-Battle (*Dutch*) :—

Russell to Admiralty, viz. :—

May 7 (*h*). Off the Kentish Knock. . . . Does not yet know what number the Dutch squadron consists of. . . .

May 9 (*h*). Encloses Dutch Line-of-Battle, distinguishing those (*a*) which are with the Fleet, and those (*b*) which Admiral Almonde does not expect in less than three weeks. The List, consisting of 36 ships, 2 frigates, and 6 fireships, agrees in all respects with that in Somers' Tracts (XI. pp. 460–1), except in naming one of the fireships *d'* 6 *Gebroders* instead of *d'Gebroaders*, and in describing the *Vellu'w* as a 3rd rate, instead of a 5th rate. The names marked (*a*) are the 8 frigates and fireships and the following 16 ships, viz. :—

Noorth-Hollandt.	*t' Stot Muijden.*	*Princes.*
Tergoes.	*Prins.*	*Amsterdam.*
Vere.	*Etswont.*	*Vellu'w.*
Eerste Edele.	*Schattershouff.*	*Captain Generall.*
Brandenborgh.	*Leijden.*	*De 7 Provintien.*
Zeelandt, A.		

Those marked (*b*) are the *Gelderlandt, A; Haarlem; Ripperda* and *Beschermer.* The remaining 16 are not marked.

Line-of-Battle (*English*) :—

May 15 (*h*). Encloses State of the Fleet, as regards men and provisions,* dated St. Helens May 14. [The List, arranged as a Line-of-Battle, and consisting of 64 ships † and 24 fireships, is identical with that in Somers' Tracts (XI. p. 459), except in adding the *Tiger* prize and the *Hawk* fireship to the Rear-Admiral of the Blue's Division.‡ It is made up of 77 of the 90 ships appointed on April 22 (excluding the 13 fifth and sixth rates and hospital ships), together with the *Monk* and 11 out of the 17 ships and fireships added on May 7 (excluding the *Dragon* fourth-rate, and all the fifth-rates except the *Adventure*).]

Line-of-Battle (*English and Dutch*) :—

May 15 (*h*). . . . "The Dutch that are now with me are 22 in number, which is all we expect in any time, so that with those of our own, we make up 79 sail."

(*Fifth-rates detached*) :—

May 15 (*h*). "Your Order of 11 May § to send into the Downs what small frigates I can spare from the Fleet shall be obeyed, which will be the *Charles* galley, *Virgin* prize and (if I can spare her) the *Falcon*, though I am very unwilling to send any ship from the Fleet above 40 guns. The *Mary* galley and *Milford* I keep, in the room of the *James* galley and *Sheerness*."

(*Reinforcements after Battle*) :—

May 21 (*e*). *Admiralty to Capt Hughes*, of the *Pearl*, Falmouth. To sail at once with his ship which came from Bilboa, and the Dutch ships (if ordered to go with him) and join Admiral Russell, now in pursuit of the French, according to such intelligence as he shall receive of his movements, taking care not to be intercepted by the enemy.—— May 23 (*e*). To take out of the merchant-ships from Bilboa, before sailing, such men as are not necessary for their security, and send an account on joining the Fleet.

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* *See* under MANNING THE FLEET and VICTUALLING.

† Nine of these, viz., the *Cornwall, Devonshire, Breda, York, Plymouth, Monck* and *Royal Oak* (3rd rates), and the *Chatham* and *St. Albans* (4th rates), leave blanks in the column of "men actually on board."

‡ The *Advice* in the Rear-Admiral of the Blue's Division is given here twice.

§ Not among the Papers.

May 23 (*e*). *Admiralty Orders* (2), to the Commissioners of the Navy at Portsmouth (Thos. Wilshaw) and Plymouth (Henry Greenhill). To order any ships that shall come to those ports, except the *Samuel and Henry* * and *Germoon* prize at Plymouth, to join with all possible despatch the Fleet, which was in pursuit of the French on the 21st off Cape La Hogue, and advise any Dutch men-of-war to do the same.

(*Refitting Fleet*) :—

May 23 (*h*). *Russell to Admiralty*. . . Designs for St. Helens, though, in consideration that many great anchors, cables and masts will be wanting, he believes in the Downs they may be supplied soonest, but he leaves that to their better judgment, desiring them to give order as soon as possible for their being got in readiness against the ships come in. . . .——May 25 (*h*). . . Doubts not that the great masts, anchors and cables, wanting for the ships on their coming into port, will be ordered to be got ready as soon as possible. Such ships as cannot be supplied at Portsmouth, will have to be ordered forthwith up the River.——June 4 (*h*). . . Will ascertain from the Commanders of the ships that cut and left their anchors behind them on the French coast, when pursuing the enemy, how the land bore of them when they cut, and what else is material for finding the anchors, but thinks it will be very difficult to recover them, owing to the great depth of the water, and the strength of the tides.

May 27 (*h*). "Mr. Dummer is upon surveying the ships. Several of them, I fear, must have their masts shifted, as the *Royal William*. If you approve of it, her guns and men may be put into the ship at Portsmouth designed to be launched tomorrow, they tell me, and Shovell † go in her; if not that, I must make room for him and his Captain in some other ship. I should be very unwilling to leave either of them behind. . . I design to send two 4th-rates to clean at Portsmouth, and I hope you have ordered some of the Bilboa convoy to clean there."

May 27. *Russell to Admiralty* (*h*). Has ordered the *Deptford* this afternoon to Plymouth, to clean and refit.

June 2 (*h*). St. Helens. Has ordered the *Deptford* and *Portsmouth* to Plymouth, to be refitted, but with the winds they have had, they can hardly yet have got westward of Portland. . . . All things are putting in the greatest forwardness for refitting the Fleet, as soon as the weather will permit the doing it. Thinks the Fleet's being here is not the least part of the good fortune they have had this campaign, considering the badness of the weather, which is almost equal to any he has known in winter, and the damage several of them have received in their masts, &c., which would have exposed them to no small hazard.

June 4 (*h*). Spithead. Went off to the Fleet early yesterday, the weather being somewhat better, and brought this morning such ships from St. Helens hither to Spithead, as want most repair. Could do nothing to them before today, owing to the bad weather, and fears they will meet with further interruption, as the wind is changed to E., and begins to blow. But nothing shall be wanting towards putting the Fleet into the speediest and best condition for the sea that may be, though he believes he will be forced to leave several of the ships behind,

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* The *Samuel and Henry* sailed as a convoy to New England on June 7. (*London Gazette*, No. 2774.)

† Russell writes, on June 1 (*h*): — "You are misinformed touching Sir Cloudesley Shovell, for I saw him last night, and he is in a fair way of doing well in a short time." He had been "slightly wounded in the thigh with a splinter." (*Luttrell*, May 28.)

HOUSE OF LORDS MSS. 1692.

which were most damaged in the engagement, owing to the great scarcity here of masts, yards, anchors, &c. . . . Has sent a 4th rate and some smaller ships to Plymouth, to be cleaned and refitted.

June 5 (*h*). Spithead. . . . The new ship at Portsmouth was launched last Friday.* Desires to know if she may be fitted out here in place of the *Royal William*, whose guns are very little heavier than those designed for the new ship. Designs to leave the *St. Andrew* to be refitted here, and turn over most of her men to other ships that want them most.——June 6 (*f*). *Admiralty to Russell.* To send the *Royal William* and *St. Andrew* from St. Helen's to Chatham, leaving enough men on board to bring them about, and transferring the rest and such guns as he shall think fit, to the *Devonshire* and *Cornwall*.—— June 9 (*h*). *Russell to Admiralty.* Will send about the *Royal William* as soon as the weather allows her guns to be taken out. Designs to put her middle tier of guns into the *Cornwall*.

(*Small ships ordered to Downs*) :—

June 1 (*h*). *Russell to Admiralty.* . . . Will send what small ships can be spared to the Downs, to await the Board's orders, as soon as he can regulate the Fleet and judge of its strength. . . .—— June 4 (*h*). Cannot yet comply with Order, for though there are several 4th rates here at Spithead, many of the ships designed for the Fleet are either not arrived, or will be unfit for sea, among which are the *Cornwall* and the other new ship at Bussleton,† the former having very few men and none of her guns yet come from the River, and the other in even a much worse condition.

(*Fireships*) :—

June 2 (*h*). *Russell to Admiralty.* In reply to their Letter of yesterday,‡ enquiring whether there are any ships, lately taken by the Fleet, that are fit to be made fireships, there is only one fit for that purpose,—a fireship taken by Sir John Ashby. Believes they will be able to fit her here, at Portsmouth, and even if they had more vessels in the Fleet that might be made fireships, they could be of little use this summer, considering the time it would take to send them to be fitted to the Medway, as proposed. Hopes those they have already will suffice for what is wanted this campaign. . . . Sends a list of fireships lost, but has not yet had time to enquire how, viz. :—

Half-Moon, Capt. Napp [Knapp].	*Fox*, Capt. Killingworth.
Cadiz Merchant, Capt. Winn.	*Hopewell*, Capt. Jumper.
Blaze, Capt. Heath.	*Extravagant*, Capt. Emms.
Thomas and Elizabeth, Capt. Littleton.	*Wolf*, Capt. Greenway.
	Hound, Capt. Foules.

June 4 (*h*). In addition to the one fireship taken from the enemy, as he reported, a vessel is since come in with the Bilboa convoy, which they had converted into a fireship after taking her, but she wants many things to make her completely serviceable. Cannot hear of anybody belonging to the Ordnance Office here at Spithead, that knows anything of the matter, but hopes to do it without their assistance. Cannot but think it more than necessary at this time that the most experienced men in that Office should be here, but, in saying this, he has no reason to complain of the diligence of the Officer that attends here. P.S. Has ordered the *Pearl* up to Longreach to receive their commands; she is

* The *Russell*, of 80 guns. (*London Gazette*, No. 2772.)

† The *Cornwall* was launched at Southampton and the *Devonshire* at Bussleton, near Southampton, in April. (*London Gazette*, No. 2761.)

‡ Not among the Papers.

in such a bad condition, that he believes she will hardly ever be fitted again as a man-of-war, but possibly she may make a tolerable fireship.

June 9 (*h*). When stating that he hoped he had fireships enough for service this summer, he did not imagine their Lordships would therefore stop fitting out the *Charles* and *Cygnet*, for which they desired him to recommend Commanders (*see* IX., APPOINTMENTS AND PROMOTIONS). A greater number than he has might well be dispensed with, but as for those which their Lordships told him they were taking up in the River, he still thinks that they cannot be fitted and join the Fleet before it will be time to have thoughts of coming in; but no doubt they will direct a sufficient number to be provided for next year's service.

(*Ships left at St. Helens*):—

June 16 (*f*). *Admiralty to Commander-in-Chief at St. Helens or Spithead.* To send the names of such ships of the Fleet as were left behind by Russell when sailing from St. Helens, and what orders he left for them. [Russell left St. Helens with the Fleet on the 14th. *London Gazette*, No. 2775.]

(*Survey of Third-rates*):—

Aug. 6 (*i*). *Russell to Admiralty.* St. Helens. Encloses, for information of Navy Board, a survey of the 3rd rates in the Fleet, except the *Mountague* and *York*, which were away when it was taken.—The survey is dated July, that of the Red Squadron being taken by the Master Carpenters of the *Britannia*, *Royal Sovereign* and *Duke*, and that of the Blue Squadron by the Master Carpenters of the *Victory*, *Neptune* and *Duchess*. Details are given of various defects in the following ships:—

Red Squadron:—

Lion.	*Kent.*	*Essex.*
Resolution.	*Swiftsure.*	*Hope.*
Eagle.	*Elizabeth.*	*Cambridge.*
Hampton Court.	*Burford.*	*Grafton.*
Monk.	*Captain.*	*Cornwall.*

Blue Squadron:—

Berwick.	*Edgar.*	*Northumberland.*
Defiance	*Suffolk.*	*Stirling Castle.*
Warspite.	*Restoration.*	*Dreadnought.*
Monmouth.	*Expedition.*	*Royal Oak.*

Aug 17 (*k*) Encloses Survey of the *Lenox* and *York*, which were not with the Fleet when the other surveys were taken.—The Survey, which is taken pursuant to an Order from Admiral Russell of 14 July for surveying the 3rd rates of the Red Squadron, is signed by Augustin Robinson and Jos. Allin, and dated 16 Aug.

(*Repairs: particular Ships*):—

Russell to Admiralty, as follows:—

Plymouth:—Aug 6 (*i*). May be careened, if not wanted, at Plymouth, and cruise till foul, and then be docked, she complaining of being iron-sick.——Aug. 14 (*i*). Understands she is ordered to be cleaned at Plymouth. He himself proposed it, but he fears she is too sharp a ship to take the ground, and he knows she is very hard to careen, besides very tender-sided, not having had a good repair this war. But he has asked the Commissioner at Plymouth to give his opinion, after consulting the builder.——Aug. 23 (*k*). As to cleaning her, the Commissioner advises to the contrary, so he shall have her cleaned here at St. Helens, as soon as the hurry of work is a little off their hands. To send more ships in would rather hinder than forward the service.

HOUSE OF LORDS MSS. 1692.

Crown:—Aug. 6 (*i*). Would do well in the Soundings, when clean. *Adventure* and *Sandadoes*:—Aug. 14 (*i*). Hopes to clean them at Portsmouth this spring, notwithstanding the great works they have in hand.——Aug. 21 (*k*). They are ready to sail.

Dreadnought:—Aug. 21 (*k*). Has sent her, as ordered, into Portsmouth harbour.

Devonshire:—Aug. 23 (*k*). Still thinks, as he wrote to E. Nottingham, who mentioned her in a letter to him, that she is unfit for service, and doubts whether she can ever be made a good man-of-war. This, he supposes, has already been laid before the Board.

(*Damages from Storm*):—

Aug. 13 (*i*). *Russell to Admiralty*. . . . Does not hear of any mischief to the Fleet, except that the *Adventure*, which lay just by him, had her mainmast and topmast shattered to pieces.*——Aug. 14 (*i*). Finds that the masts of the *Owner's Love* and *Vulture*, fireships, had been damaged by the lightning, but not beyond easy repair.

(*Line-of-Battle*):—

Aug. 13 (*i*). Encloses Line-of-Battle, showing how the Fleet will be composed, since detaching the 10 ships under Capt. Robinson. [*See* PARTICULAR SERVICES].—The List is as follows; "the English to lead with the larboard, and the Dutch with their starboard tacks on board," viz.:—

BLUE SQUADRON.			RED SQUADRON.		
Rate.	——	Guns.	Rate.	——	Guns.
	Vice-Admiral's Division.			Admiral's Division.	
2	*St. Michael*	90	3	*Essex*	70
3	*Restoration*	70	3	*Swiftsure*	70
3	*Expedition*	70	3	*Eagle*	70
3	*Dreadnought*	60	2	*Sandwich*	90
3	*Royal Oak*	70	1	*Britannia*	100
2	*Neptune*	90	1	*London*	100
2	*Windsor Castle*	90	3	*Grafton*	70
3	*Northumberland*	70	3	*Hampton Court*	70
3	*Stirling Castle*	70	2	*Albemarle*	90
2	*Ossory*	90	Fireships.	*Vulcan.*	
Fireships	*Owner's Love.*			*Flame.*	
	Speedwell.			*St. Vincent.*	
	Admiral's Division.			Vice-Admiral's Division.	
3	*Berwick*	70	3	*York*	60
3	*Suffolk*	70	3	*Elizabeth*	70
3	*Edgar*	70	3	*Burford*	70
2	*Vanguard*	90	3	*Captain*	70
1	*Victory*	100	2	*Duke*	90
2	*Duchess*	90	1	*Sovereign*	100
3	*Mountague*	60	2	*Royal Catharine*	90
3	*Hope*	70	3	*Plymouth*	60
3	*Resolution*	70	3	*Cornwall*	80
Fireships	*Vesuvius.*		3	*Lenox*	70
	Etna.		Fireships	*Lightning.*	
	Hunter.			*Vulture.*	
				Friesia, Dutch.	
	Dutch Ships, 22.				

* "They write from Portsmouth that 6 seamen were struck down by the late lightning, last (*sic*) on board the *Adventure*, 4 of which recovered, but the other 2 lay a dying." (*Luttrell*, Aug. 16.)

(*Great ships ordered round to Chatham*):—

Aug. 14 (*i*). *Russell to Admiralty.* . . . Does not enquire to what time it is the Queen's pleasure to keep the 3-deck ships with the Fleet, but desires, if thought reasonable, that timely notice may be given the Ordnance Officers to have enough lighters ready, against the ships come into the Swaile, to receive their powder from them, that being the time the ships are most exposed to hazards of that kind.——Aug. 17 (*k*). Suggests that an order should be lodged at Chatham, against the ships come up, requiring each captain, so soon as his ship is brought to her moorings, to see his barge delivered to the custody of such as the Commissioner shall appoint. Providing boats for the Fleet is a very great charge, and for the most part, they receive the greatest damage when the ships come in to be laid up, nobody taking care what becomes of them.——Aug. 25 (*k*). . . . Suggests that, instead of unrigging the great ships, as has been customary, when they come in, they should have their standing rigging, tops and topmasts through the caps, which will forward the service in the spring, but the Masters-Attendant are better judges. . . .——Aug. 28 (*k*). . . . Will order, as directed, one of the Muster Masters to go round with the 1st and 2nd rates, and the others to remain with the ships that will be left here at St. Helens.

(*Refitting Fleet in Winter*):—

Aug. 25 (*k*). *Russell to Admiralty.* . . . If the yards want carpenters for the winter's work in refitting the Fleet, it would be no ill service to send a number ashore out of the 1st and 2nd rates for that purpose.

(II.) Main Fleet (Movements).

(*Rendezvous at the Flats*):—

April 22 (*c*). *Admiralty to Russell.* To send at once to the Flats off the Foreland, out of the 90 ships [*see* under date Main Fleet (Composition and Condition)] appointed to his command, such 3rd and 4th rates, and also the fireships now at the Nore, or in the Thames or Medway, as are fit for sea, the rest to follow as soon as ready. [*Burchett's* Naval History, p. 461.]

(*Under sail westward*):—

May 5 (*h*). *Russell to Admiralty.* On board the *Britannia*, at anchor off the Blacktayle. Has received his Instructions of 3 May.* Yesterday, about 5 a.m., a westerly breeze springing up, he weighed, but before he could get 2 miles below the Nore, it came easterly, which brought him to anchor, and there is all the appearance he ever saw of a continued east wind. Will do his best to get to the westward. . . .

(*Junction with Carter and Delavall*):—

May 5 (*e*). *Admiralty to Russell.* To sail forthwith (pursuant to Queen's order of this day) and lie between the Isle of Wight and Cape de Hague, for joining Delavall and Carter, and, when joined, to prosecute his former Instructions. [*Burchett's* Naval History, p. 462, *in extenso*; and *Ralph's* History, II., 353.]

May 7 (*h*). *Russell to Admiralty.* Off the Kentish Knock.† Will execute his Orders of May 5 with all the diligence he is able, but prays leave to observe that there is a probability of his missing Delavall's

* Not among the Papers.

† "An express this day from the Downs, that Admiral Russell, with 16 great men-of-war, was entering the Downs yesterday; believed they will go directly into the Channel." (*Luttrell*, May 7.)

HOUSE OF LORDS MSS. 1692.

squadron. In his poor opinion, the more certain way of joining had been to have anchored off the Ness or Beachy, and the others ordered to join him there, and then to have sailed where the Fleet might have done the best service. Separating the Fleet is of the last consequence, it was always his opinion, nor has he as yet seen any reason to alter it. Fears very much, if it be true as Delavall writes of the French Fleet's readiness for the sea, that the first time he sees the Vice-Admiral of the Red, it will be with the French at his heels, which will be a very odd way of joining. Does not yet know what number the Dutch squadron consists of. Sailed yesterday from the Nore with a very bare wind, and a little of it, but thought getting to the westward worth the hazard.

May 9 (*h*). *Russell to Admiralty.* Off Rye. When passing through the Downs yesterday, the wind blew so fresh at N.E., that he could not send ashore to send an account of the Fleet's motion. Came to an anchor here about 4 o'clock; the Dutch Admiral came to him from the Downs at 7. Encloses Resolution taken this day by Flag Officers. . . . P.S. "When off Dover, I sent away Capt. Mease and the squadron of small frigates with him (which joined me that morning)* in search of Sir Ralph Delavall, with orders to join me off Beachy, or to send a frigate to let me know where he was, in order to prevent any accident of missing one the other." . . . Subjoined is a copy of the Resolution of the Flag Officers, viz., (English) Adm. Russell, Sir John Ashby, George Rooke, Sir C. Shovell, and D. Mitchell; (Dutch) Adm. Almonde, Vice-Admiral Schey, and Rear-Admiral Vandergoes, as follows:—

"Upon considering the Orders which have been given to Sir Ralph Delavall,* for his proceeding with the Squadron under his command, it is our opinion, that, for the more sure and speedy joining the said squadron with their Majesties' ships at this place, we should remain here 48 hours, and that a ship be forthwith sent to cruise off Beachy to look out for Sir Ralph Delavall, and, upon discovering his flag, to make a signal to another frigate to lie between Beachy and this place, in order to his doing the like. That if the wind blow hard westerly, it is most convenient that the Fleet should come to an anchor off the Ness, and that, if it blow hard easterly, they should sail to, and anchor at, St. Helens. [*Burchett's* Naval History, p. 463, *in extenso;* and *Ralph,* II., 352.]

(*At St. Helens*):—

May 13 (*h*). *Russell to Admiralty.* St. Helens. Came to an anchor here about 11 o'clock this morning. . . . The wind blew so very hard during his lying in Rye Bay, that he could not get up his anchors till yesterday in the afternoon, and then it blew so strong, that several of the ships were forced to leave theirs behind them. . . . Has sent several light frigates to cruise to the westward, to bring account of the enemy's motion, if they approach them; but in his opinion these easterly winds have driven them out of the Channel.

May 15 (*h*). *Russell to Admiralty.* St. Helens. . . . "I wish hourly for the occasion to try our officers, who, I hope, will answer what is expected from them. I herewith send you the Resolution of this day's Council of War,† by which you will see what we are going to do, as also that this place is the rendezvous for all ships to meet at." . . .

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* *See* PARTICULAR SERVICES.

† The Resolution here referred to is enclosed, not in this Letter, but in that of 17 May.

May 17 (*h*). *Russell to Admiralty.* St. Helens. "This day I design to sail, though my stay out, unless commanded, will not be long, as you see by the opinions of the Council of War, by which I shall govern myself all this summer, depending very little on my own judgment."—Subjoined is a Copy of the Resolution of the Council of War of 15 May, Present: (English) Admirals Russell and Ashby, Vice-Admirals Delavall and Rooke, Rear-Admirals Shovell and Carter, and Capt. Mitchell; (Dutch): Admiral Almonde, Vice-Admirals Callemberg, Skey and Vanderputten, and Rear-admirals Vandergoes, Evertsen and Meuse, viz., Not to proceed to the westward of St. Helens till there be certain advice that the French fleet is on our coast, *and then to endeavour to fight them.* To sail with first fair weather to the French coast near Cape de Hague and Cape Fleur [Barfleur], and continue there four days, if fair, to see what service may be done there, and then return to St. Helens, as the place most proper for the Fleet's rendezvous. *To come to an anchor on the French coast, and ride there one day, if it be fair weather.* [Burchett (Naval History, p. 464) and after him Ralph (History, II. 353) omit the words in italics.]

(*The Battle*):—

May 20 (*h*). *Russell to Admiralty.* Describes the Battle of the previous day. [Identical with the letter printed *in extenso* in Kennet, III. 641, and the London Gazette, No. 2768, and described there as Adm. Russell's Letter to E. Nottingham.]

May 23 (*h*). *Russell to Admiralty.* Le Hogue Bay. "In my letter of the 20th I could give you no other account of the Battle, than that the enemy left me between 5 and 6 o'clock the evening before in thick weather, and that I was then in search of them. About an hour after the *Mary* galley parted from me, the weather cleared up, and I saw most of them under the shore between Cape Barfleur and Cape de Hague, the wind easterly, and they crowding away to the westward, and we and the Dutch after them. Some hours after, the wind shifted westerly, they and we plying to windward upon the ebb, and anchoring upon the flood. On the 21st, in the morning, I saw most of them got into the Race of Alderney, 18 or 20 of them cutting their cables, and running to the eastward. I made the signal for the Fleet to cut and chase, which all of us did, except the Dutch and the Admiral of the Blue, who were far to windward of me, and lay ready for the rest of the enemy that were in the Race. Three great ships of them, that went to the eastward, with two frigates, I put on shore at Sherbrooke [Cherbourg], and left Sir Ralph Delaval (being the sternmost of the Fleet) with a strong squadron of men-of-war and fireships to destroy them, and this day he is returned hither, having performed that service. The names of the three great ships are the *Royal Sun*, the *Conquerant*, and the *Admirable*. I am now at an anchor at this place, where in the harbour are great numbers of transport-ships, and at the mouth of it 10 sail of great men-of-war, who have lightened themselves all that possibly they can, to prevent being destroyed by us; but that, I hope, will not save them. One more, of about 50 guns, lies upon her side lost. The enemy's ships did not exceed 50 ships of war, of which number 18 of them had three decks, and but two so small as 56 guns. Though their number was inferior to ours, yet I can positively affirm, that the ships of their Majesties which beat them, did not exceed 40, for the weather being so thick and quite calm, the Dutch, who led the van, could not come in to fight; and the Blue, who were in the rear, could not come up, except in the night about 8 o'clock, and then they met with some scattered ships of the enemy's, in which scuffle Rear-Admiral

HOUSE OF LORDS MSS. 1692.

Carter was killed,* and, had not the weather been very cross, not one of their ships could have escaped us. Monsieur Tourville (who lay by me about an hour and a half) plied his guns very fast, but, after that, slackened his hand, and with his boats towed his ships at a greater distance from me. Both he and all his division, I believe, had their belly's full, for there was not one ship in my division but what plied them very warmly. I send you an account,† which I have received from a captain of a fireship Sir John Ashby took yesterday, of what he knows that passed before and in the Battle, he being one of those ships that were to windward and in the Race.

"Since the writing this, the Admiral of the Blue and the Dutch are come hither, but lost sight of the enemy off Guernsey, and I presume they are now got into St. Malo's. I design tomorrow to advise with the Flag-Officers about sending a strong squadron to the westward. Possibly they may meet them with the first fair wind going for Brest. I also design to propose sending a small squadron of light ships off of Havre, and so along the coast to Dunkirk, to see what may be picked up. I have pursued them so warmly, that I have not given them time to breathe. The ships most disabled I'll keep here, till these ships are destroyed, and then try what may be done on the transports in the haven. When I depart from hence, I design for St. Helens. . . . [For continuation of letter *see* under date MAIN FLEET (COMPOSITION AND CONDITION) (*Refitting Fleet*).]

P.S. "May 24. Since the writing of this, I sent in Vice-Admiral Rooke with a squadron of ships and fireships, and all the boats in the Fleet; and therefore I stopped this express, till I could give you some account of the success; which is, that with the boats last night they burned 6 great ships, and this morning 6 more, the least of 60 guns, and several of them being of 90."

(*Return to St. Helens*) :—

May 25 (*h*). *Russell to Admiralty.* Under sail 6 leagues N. from Le Hogue. Is now under sail towards St. Helens with all the Fleet except 12 English men-of-war and 3 fireships under the command of the Admiral of the Blue [Sir J. Ashby], and as many Dutch ships, which he has ordered along the French shore as far as Havre-de-Grace, to endeavour to destroy such of the enemy's ships as they meet with there, if it be possible, and if not, to return forthwith to the Fleet at St. Helens. [*See* Burchett's Naval History, p. 469.]‡ . . . "P.S. Last night we burnt several transport ships."

June 1 (*h*). *Russell to Admiralty.* Portsmouth Yard. Has received their letter of 30 May, and would have owned the receipt of those of the 16th, 18th, 19th and 21st sooner, had not his time been wholly taken up with the Lords who came hither by her Majesty's directions.§ Came on shore last Monday [May 30], and ever since then, the wind has blown so extremely hard, that there has been no

* This confirms the account in the *London Gazette*, No. 2768, that Carter was killed during the pursuit. Macaulay (iv., 236, edit. 1855) states that he was killed at the beginning of the action, after being the first to break the enemy's line. Clarke's Life of James II.(ii. 493) or Luttrell, 26 May 1692, seems to be the authority for this misstatement.

† Not among the Papers.

‡ Sir J. Ashby rejoined the Fleet at St. Helens on 29 May. (*London Gazette*, No. 2771.)

§ E. Rochester, E. Portland, and L. Sidney. (*London Gazette*, No. 2771.) They had been sent to concert measures for prosecuting the Descent on France. *See* E. Nottingham's Abstract, Paper (*l*) below, May 27. C. J., X. 751.

getting off to the Fleet. Designs, as soon as the weather is a little moderate, to go to sea with such English and Dutch ships as are in the best condition, and leave the rest at Spithead to be refitted. . . . Thanks them for their advice of the two disabled French ships * seen off Beachy on Wednesday or Thursday last. Believes, if the report be true, they cannot now be far from that place, the wind having been out of the S.W. quarter ever since, and for the most part blowing extremely hard.

June 2 (*h*). *Russell to Admiralty.* Portsmouth. . . . Designs for the French coast as soon as the weather is somewhat moderate, with such ships as are fittest for sea, and if his own ship cannot be got ready, he will go in another.

* * * * * * * *

[There is a gap in Russell's Letters from 9 June to 24 July, representing a period covered by a Book, No. 4, missing between Papers (*h*) and (*i*). He left St. Helens with the Fleet on June 14, with a design to intercept the French ships on their way from St. Malo to Brest (*E. Nottingham's* Abstract (Paper (*l*) below), June 13 and 14, and C. J., X. 752), but after being forced by bad weather 20 leagues W. of Ushant, came again in sight of the English coast on the 30th (Paper (*l*) June 30; *London Gazette*, No. 2781), and reached Torbay on July 1, having been unable to attack the French ships at St. Malo without land forces. (*Luttrell*, July 5.) He stood over again to the French coast, almost immediately after (*Ib.*), and sent letters to E. Nottingham on the 3rd from "Guernsey Road," and on the 6th "under sail off Guernsey" (Paper (*l*) *ut supra*). On the 8th he was at anchor off Berry Point, having detached a squadron to the French coast under Rooke (*Ib.*; *London Gazette*, No. 2782), who rejoined him on the 13th (No. 2784). On the 10th, having been forced back by a strong W.N.W. wind, he came to anchor at Torbay (*London Gazette*, No. 2783). He sailed from there on the 15th (see *London Gazette*, No. 2784), but was back again at Torbay on the 19th. (*Ralph*, II. 359.)]

(*At Torbay*):—

July 24 (*i*). *Russell to Admiralty.* At Torbay. Has taken in what provisions came in the victualling ships, and will tomorrow, if the weather be fair, put to sea. . . . The weather has been extremely foggy, with squalls of wind, since he came here. . . .

(*Council-of-War*):—

July 25 (*i*). *Russell to Admiralty.* At Torbay. Encloses Resolution of Flag Officers at a Council-of-War, called on board the *Britannia* this morning, viz. That a squadron † be sent hoff the Isle of Basse, to prevent the French ships going from St. Malo to Brest, and that the rest of the Fleet sail forthwith to Spithead, to join the transports, if the wind be westerly, but continue at Torbay and wait for them, if it be easterly. [The Resolution is printed *in extenso*, with two small variations, in C. J., X. 720–21.]

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* With regard to French ships disabled after the Battle, the following appears elsewhere, viz.:—May 24 (*e*). *Admiralty Order.* To Thos. Wilshaw, Esq. one of the principal Officers and Commissioners of the Navy at Portsmouth. To employ the guardship *Rose*, or any other ship within his reach, which he shall judge proper, to take up any lame ships of the French, or on any other necessary service at this time after the engagement with the enemy.

† Sir John Ashby's, which relieved Capt. Nevill's. *See* PARTICULAR SERVICES.

HOUSE OF LORDS MSS. 1692.

(*Departure for La Hogue Bay*) :—

July 29 (*i*). *Russell to Admiralty.* On board the *Britannia.* Yesterday afternoon called a Council of War, at which it was agreed that, since the season is so far advanced, it is not practicable to attempt anything against the enemy either at St. Malo or Rochfort. Encloses Copy of Result for their information how the Fleet will proceed,* and likewise a Paper signed only by the Flag Officers,† as also the places appointed for rendezvous, viz., "In case of separation by bad weather or any other avoidable accident, and the Fleet be to the eastward of the Isle of Wight, the place of rendezvous with the wind westerly is Le Hogue Bay, and with the wind easterly St. Helens; but if the Fleet be to the westward of the Isle of Wight, the place of rendezvous with the wind westerly is St. Helens, and with the wind easterly Torbay. Dated on board the *Britannia* this 29 July 1692." Is now on the way to the Bay of Le Hogue, to countenance the army in what shall be thought convenient to be attempted on the coast of Normandy.

(*Return to St. Helens*):—

July 30 (*i*). *Russell to Admiralty.* Off the high land of St. Albans. Received this morning the Queen's Order of the 26th inst., and encloses Resolution of Council-of-War thereon. Is coming, accordingly, to St. Helens with his portion of the Fleet and the transports, and shall await there the Queen's further commands. [The Resolution is given *in extenso* in C. J., X. 722. Russell announced his return to St. Helens by an express which reached Whitehall on August 1 (*Luttrell*, Aug. 2), with which day E. Nottingham's Abstract (Paper (*l*) below) ends.]

Aug. 6 (*i*). *Russell to Admiralty.* St. Helens. . . . The weather is very uncertain, wind and rain, the wind not continuing long at one point of the compass. . . .

Aug. 7 (*i*). *Russell to Admiralty.* St. Helens. . . . The wind is at S.W., blowing hard, with much rain.

Aug. 13 (*i*). *Russell to Admiralty.* St. Helens. . . . Wind at W.S.W. . . . Made the signal yesterday (pursuant to Queen's Order) for sailing westward, the wind being easterly, and designed to have done it this morning, but last night, about 9 o'clock, it began to lighten, and at 11 it lightened, thundered and rained, with sometimes great gusts of wind, that in all his life he never saw the like, and so continued till 1. . . .

Aug. 14 (*i*). *Russell to Admiralty.* St. Helens. . . . The wind has, since the storm, blown very hard at S.S.W. with rain. . . .

Aug. 17 (*k*). *Russell to Admiralty.* St. Helens. Received the Queen's commands for the Fleet's sailing to Torbay, but has been detained by contrary and very hard gales of wind. Will sail, if the wind comes E., but at present it is S.E., and at this time of year the Flag-Officers, whom he has consulted with this day, are of opinion the Fleet should not venture to sea with the wind to the southward of E.S.E. . . . P.S. Since writing this, the wind is come about to the S.W. [Admiral Russell's last Letter is dated St. Helens, Aug. 28. On Sept. 5 he struck his flag and went up to London. All the 1st rates were ordered up the river under Sir Ralph Delavall, to be laid up; the rest were to continue at sea under Sir John Ashby. (*Luttrell*, Sept. 8.)]

* Printed *in extenso*, but with some variations, in Burchett's Naval History, pp. 474–6, and following him in Ralph's Hist., II., 360, and Campbell's Lives of the Admirals, III., p. 113. The substance is given in E. Nottingham's Abstract (Paper (*l*) below), under date July 28. The text above adds at the conclusion the words "And it is resolved the fleet lie on the said coast [of Normandy] accordingly." The other variations are purely verbal.

† C. J., X. 721 *in extenso*, but omitting the signature of C. Vanderputten.

III. Particular Services. (April 2–Aug. 28).

i. (*Separate Services*):—Rear Admiral Carter (April 2–May 10).——Capt. Meese (April 5–28.)——Capt. Bridges (April 8).

ii. (*Detached Services*) :—Vice-Admiral Delavall (April 24-May 10).——Capt. Evans (May 27-June 1).——Cruisers for French privateers (July 24–Aug. 28).——Capt. Nevill (July 24–Aug. 7).——Sir John Ashby (July 24–Aug. 9).——Sir Cloudesley Shovell: Expedition to Dunkirk (Aug. 7).——Capt. Robinson (Aug. 13).——Newfoundland Squadron (Aug. 23).——West Indies Squadron (Aug. 21–26).

iii. (*Convoys*) :—Merchant-men from Bilboa (May 14–June 13).——and for East Country, &c. (June 6–10).——Ordnance stores for Portsmouth (May 28).——Ordnance Stores, &c. for Plymouth (June 4).——Transports for Holland (June 22–July 27).——*Exeter* hulk (July 30-Aug. 28).——Ketches, &c. (July 30).——The *Ann* (Aug. 13).——Dutch St. Ubes' Fleet (Aug. 21).

i. *Separate Services.*

(*Rear Admiral Carter*) :— Admiralty Orders as follows :—

April 2 (*b*). To repair to the Downs, and after fitting for service in the Soundings, with all possible dispatch, the *Deptford* and *Hound* fireship (in the Downs), and the *Monmouth*, *Mountague*, *Tiger* prize and *Milford* (ordered to the Downs), to hoist his flag and sail with them westward, taking up the *Centurion* at Spithead, to Plymouth, where he will find the *Extravagant* fireship, and remain at Plymouth Sound for further orders.——April 6 (*b*). To take with him, on his way westward, such Dutch ships at Spithead as shall be ordered to join him.——April 11 (*b*). Order as to *Centurion* revoked, she being ordered to Plymouth Sound, to await his arrival there.*

April 12 (*b*). To sail to Spithead, and remain there for further orders, taking with him the above-named ships (omitting the *Extravagant* and *Centurion*), together with the *Rupert*, *Woolwich*, *Dragon*, *Charles* galley and *Falcon*, or such of them as shall be now in the Downs.†

April 14 (*b*). Instructions: To take under his command the following ships, viz. :—

Monmouth	*Portsmouth*
Mountague	*Milford*
Rupert	*Virgin* prize
2 third-rates more from the Nore‡	*Falcon*, brigantine
Deptford	*Sally Rose*
Tiger prize	*Julian* prize
Woolwich	*Roe*, ketch
Dragon	*Isabella*, yacht
Bonadventure	*Hound*, } Fireships
Centurion	*Extravagant*, } Fireships
Charles galley	and 1 Fireship more,

* The *Centurion* arrived at Plymouth, with two trading vessels under her convoy, on April 17. (*London Gazette*, No. 2759).

† Carter, with his squadron, arrived at Spithead on April 18. (*Ib.*, No. 2759.)

‡ On April 11 the Commander-in-Chief at the Nore was ordered to send two of the smallest 3rd rates to Spithead (*b*). On the 18th, no ships having been sent, he was ordered to send the *Cambridge* and *Resolution*, supplying them with men from the great ships in the Medway (*b*). On the 21st, the Chief Flag-Officer at the Nore was ordered to keep the *Resolution* at the Nore till further orders (*b*). [The *Resolution* was appointed one of the Main Fleet on April 22. According to *Luttrell* (14 April), Carter appears to have sailed with a squadron of 14.]

HOUSE OF LORDS MSS.
1692.

and immediately, with any 5 or more of them, to sail over to Guernsey and Jersey, the rest to follow. After taking on board pilots, he is to cruise near St. Malo for 48 hours and no longer, to gain information, unless he finds he can do services against the enemy, failing which, he is to proceed to Cape de Hague, and stand in to Havre-de-Grace, to get intelligence and annoy the enemy. If nothing is to be done there, he is to detach the *Dragon* and *Falcon* to the Shannon, with orders to convoy the artillery ships from thence to Kinsale, and himself to return with the rest of his squadron to Spithead, sending on what account he has of the enemy's designs. If he finds it needful to stay on the French coast for the defence of the islands, he is to send word. [The substance is given in *Burchett's* Naval History, pp. 461–62.]

April 17 (*b*). To take with him to Guernsey (pursuant to Queen's Order) Col. Purcell's regiment, now at Portsmouth, if ready to embark, and if not, to order such ships as shall follow him, to do so instead.——April 19 (*b*). To proceed at once on his service, without embarking the said regiment.——April 20 (*b*). To put the regiment on shore again, if already embarked, and proceed according to his former Orders, excepting only that he is not to send away the *Dragon* and *Falcon*,* as previously directed, but return with all speed, with all the ships under his command, to the Flats off the Foreland, and not to Spithead, as soon as the service on which he is ordered is performed.

April 23 (*c*). To keep (on returning from his service) on the French coast, in order to meet Delavall's squadron, ordered thither, and to follow his orders, if met; and if not, to return to the Downs for further orders.

May 5 (*e*). Pursuant to Queen's Orders, he is, if not yet joined with Delavall, to cruise between the Isle of Wight and Cape de Hague, in order to join him and the Fleet with Admiral Russell, which are ordered to that station. [*Burchett's* Naval History, p. 462.] To advise any Dutch men-of-war he may meet with, of that station, in order to their repairing thither also.

May 10 (*e*). *Admiralty to Russell.* The Board understanding by a Letter to their Secretary from Carter, that some of the squadron of their Majesties' ships under Russell's command have lately taken a French ship bound from Havre-de-Grace to Brest, with a packet to Mons. Tourville,† he is required, on Carter's joining him, to have the captain, master and carpenter of the French ship forthwith sent up in custody to the Board.

(*Capt. Meese*) :—

April 5 (*b*). *Admiralty to Capt. Meese, of the Ruby*, at the Nore. The Board being informed that some French ships of war have lately gone from Dunkirk to the northwards, he is to sail with the *Ruby*,‡ together with the *Advice*,‡ *Portsmouth*,§ *Mermaid*, *Sandadoes* § and *Greyhound*,§ or such as shall be ready, and cruise for

* On 21st April the Chief Flag Officer at the Nore was ordered to keep the *Dragon* and *Falcon*, together with the *Milford* and the *Hawk* fireship, at the Nore till further orders (*b*). These four ships were added to the Main Fleet on 7th May.

† "An express from King James to Tourville at Brest was taken by Delavall, and this day brought to the Council." (*Luttrell*, May 10.) "A French advice-boat, with letters for Tourville to act in this juncture, intercepted by Delavall." (*Ib.*, May 12.) Carter joined Delavall between the Isle of Wight and Cape La Hogue on May 9, and the two joined Russell at St. Helens on the 13th. (*Ralph*, II. 353. *London Gazette*, No. 2766.)

‡ Added to Main Fleet on May 7.

§ Appointed to Main Fleet on April 22.

20 days between Yarmouth Roads and Leith, and sometimes into the sea and upon the Dogger Bank, as wind and weather will permit, doing his best to protect the ships of the English and their Allies passing that way, and to take or destroy those of the enemy, sending frequent accounts of his proceedings. At the end of that period, he is to send on shore, either at Tynemouth or Yarmouth, as wind and weather will permit, for further Orders.

April 28 (*e*). *Same to Same*, at Yarmouth Roads. To sail to the Downs, with the *Ruby*, *Advice*, *Experiment*, *Sandadoes* and *Greyhound*, and there await further orders, but to leave the *Mermaid* in Yarmouth Roads, to remain there till further orders, directing her Commander to report for how long she is victualled. [*See further under* MAIN FLEET (MOVEMENTS), May 9.]

(*Capt. Bridges*) :—

April 8 (*b*). *Admiralty to Capt. Bridges*, of the *Portsmouth*, at the Nore. To sail forthwith, with his ship and the brigantine placed under his orders, and cruise between Havre-de-Grace and Cape de Hague for not more than 48 hours, getting what information he can of what the French are doing with their galleys, what soldiers are already drawn down, or drawing down to those parts, what flat-bottom boats are providing, or what other preparations making thereabouts for transporting men. This done, to return with all despatch to the Downs, and remain there for further orders, sending up, by express, a particular account of his intelligence. ["Paris. April 14. Several transport ships are getting ready at Havre-de-Grace, with design, it is said, to make a descent on Scotland." (*Luttrell*, April 14.)]

ii. *Detached Services.*

(*Vice-Admiral Delavall*) :—

April 24 (*d*). *Admiralty to Russell.* To order Vice-Admiral Delavall (pursuant to Queen's Orders of 22nd inst), as follows, viz. :—To sail with all but the 1st and 2nd rates along the French coast from Calais to Cape de Hague, sending in to discover what is doing at Dieppe, Valery, and Havre-de-Grace, and doing what he can against the shipping in those ports. Then to stretch over to the Isle of Wight, and if he finds no orders at St. Helens, to return and call for them at Dover, and, if he meet with nothing to the contrary, to return to the Flats off the Foreland, whither he is also to retreat at any time if the French Fleet should appear in superior force. To take Carter and his ships, if met with, under his command. [*Burchett's* Naval History, p. 462. *In extenso.**]

April 26 (*d*). *Admiralty to Delavall.* To send a list of the ships he takes with him, and to report his proceedings and send a vessel with any advice of moment to the first port in England.

April 27 (*e*). *Admiralty to Delavall* To leave behind the *Samuel and Henry*, *Wolf*, *Richmond* and *Lark*, to prosecute their orders from the Board.

May 5 (*e*). *Admiralty to Delavall.* To continue cruising (notwithstanding his Orders from Russell) between Cape de Hague and the Isle of Wight, until joined by Russell with the Fleet, which is ordered to that station, as he is to advise any Dutch men-of-war that he may meet. But if the enemy's fleet shall appear in superior force, he is to retreat to the Flats off the Foreland, until he meet with the rest of the Fleet.

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* *Campbell* (Lives of the Admirals, III. 91) confounds this service of Delavall's, as *Ralph* (Hist., II. 348) points out, with his previous voyage from Cadiz.

HOUSE OF LORDS MSS. 1692.

May 10 (*e*). *Admiralty to Delavall.* To send a ship immediately towards Cape de Hague and Havre-de-Grace, to order Carter to join him (if he has not done so already), directing the captain to beware of the enemy, who are said to have been off Dartmouth on the morning of the 8th inst. ["Letters from Plymouth say that Delavall was returned, having endeavoured to burn the French transport-ships, but they lay so far up the river at Havre-de-Grace that they could not come at them." (*Luttrell*, May 10.)]

(*Capt. Evans: French designs on England*).

May 27 (*h*). *Russell to Admiralty.* St. Helens. Encloses directions of date to Capt. Evans, viz.:—To cruise with his ship, the *St. Martin* prize, and the *Roe* ketch and *Goodwin* prize between Beachy Head and Dover, keeping in sight of shore, and to look out for and intercept any French vessels sent to land people in those parts, and on meeting any, to have them secured at the nearest port, giving immediate advice to E. Nottingham, and then return to his station. To report proceedings to the Admiralty, and execute any orders received from them or E. Nottingham.——June 1 (*h*). . . . The *St. Martin* prize was sailed, pursuant to his orders before those they sent arrived. . . . .

(*Cruisers for French privateers*):—

July 24 (*i*). *Russell to Admiralty.* Torbay. . . . Designs the *James* galley * and *Sun* prize to cruise in St. George's Channel, where he hears there are several privateers. . . .

Aug. 6 (*i*). *Russell to Admiralty.* . . . Recommends having two or three good sailing frigates clean, to meet the privateers near their going in foul. The ships he cleaned have come up with everything they saw, but he has no ship in the Fleet to clean that sails well.

Aug. 14 (*i*). *Russell to Admiralty.* St. Helens. . . . Has ordered the *Plymouth* and *Oxford* to cruise 24 hours off the Lizard, and then 6 hours off the Start, merely to keep the corsairs off the coast. . . . E. Nottingham writes as if they expected some ships from the Fleet should be sent to the Irish Channel in search of the privateers. But, as their Lordships know, he has no ships but 3rd rates undisposed of. The only cruising frigates are the *Deptford*, *Centurion*, *Portsmouth*,† *James* galley, *Adventure* and *Sandadoes*, and where they are ordered, he has already stated. The last two only came to him from before Breac on Saturday last. If they desire any of the 3rd rates should be sent to cruise, he will send them. . . .

(*Capt. Nevill*):—

July 24 (*i*). *Russell to Admiralty.* Torbay. . . . "The *Germoon* yesterday brought me a Letter and a Journal from the Commissioner at Plymouth of the Commander's discovering 6 sail of French ships N.N.E. from Ushant, and about 8 leagues to the eastward he saw 20 more. I will not say they were not French, but I verily believe they were the ships I had appointed to lie very near the distance and bearing he speaks of."

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* On 21 July the *James* galley brought into Plymouth a French privateer of 18 guns and 150 men, which she took, after a 3 hours' fight, three days before off the Land's End. (*London Gazette*, No. 2787. *Luttrell*, July 26.) On Aug. 10 she sailed from Falmouth to the eastward with a convoy of merchantmen. (*London Gazette*, No. 2793.)

† The *Deptford* came into Plymouth, on Aug. 13, with a retaken merchantman. (*Ib.*, No. 2793.) The *Centurion* and *Portsmouth* came in there on the 28th, after a cruise off the Irish coast, with a French privateer [*La Machine*] captured by the former on July 18. (*Ib.*, Nos. 2787, 2788, 2797.)

Aug. 2 (*i*). *Russell to Admiralty.* St. Helens. Last night Capt. Nevill arrived here with 9 English men-of-war. All the Dutch that were with him on the late cruise, and 5 of the English, are left with Sir John Ashby. They have retaken several ships that the enemy's privateers took in the Irish Channel. The Captain of the *Germoon* prize* brought a Journal of his proceedings when before Ushant, and of his discovering several French ships and one flag, and E. Nottingham sent him the same. Has compared that account with the relation of the Commanders of Capt. Nevill's squadron, and finds the 6 sail he saw were Ostenders, bound thither with soldiers from the Groyne. The single ship that chased him was Capt. Fairborne in the *Monck*, and the squadron was Nevill's. Hopes the Board will order him to be more certain of his news, before he reports it positively, lest his intelligence may lead into errors.

Aug. 7 (*i*). *Russell to Admiralty.* St. Helens. Encloses an account received from Capt. Dilkes of the *Adventure*, as follows :—

James Wallos and Thos. Boulty, lately prisoners in St. Malo, and now retaken, give this account :—That there are now at St. Malo 22 sail of men-of-war, of 60 and 70 guns apiece, and one of 86 guns, with 6 fireships,† all, excepting two, ready to sail and wait for orders, 8 of which are ordered to sail forthwith. The fireships lie at the booms, which they have lately made, to prevent any ships coming in. Three privateers are now building; one, of 56 guns, will be finished within a month; one, of 24 guns, the other of 14 guns. At this time there are at sea out of St. Malo 30 sail of privateers; 5 carry King James' Commission, all painted yellow, except the *Concord*, which is painted red, viz. :—

St. Aron, Capt. James Welch, 16 guns, 150 men.
‡ *Providence*, Capt. Lambert, 14 guns, 120 men.
Corquein, Capt. Vaughan, 18 guns, 140 men.
Prince of Wales, Capt. Robt. Welch, 12 guns, 70 men.
Concord, Capt. Golding, 14 guns, 120 men.

French privateers (descriptive particulars added to each ship) as follows :—

Victory, 36 guns, 250 men.
§*Machine*, 36 guns.
St. Esprit, 24 guns.
Seven Heads, 30 guns.
St. Peter, 14 guns.
St. Nicholas, 30 guns.
Granadan, 18 guns.
Francis de la Paix, 16 guns.
Artottill, 24 guns.

* Capt. Wilkins commanded the *Germoon* prize. (*London Gazette*, No. 2819.) It is noteworthy that the Queen's Order of 26 July, recommending an attempt on Brest, and, in particular, the burning of St. Malo, was founded, as E. Nottingham himself states in his Abstract (Paper (*l*) below), on this intelligence received from Capt. Wilkins, which, as it here appears, turned out to be incorrect.

† Letters from Portsmouth say that Sir John Ashby with his squadron continues on the French coast, and they had an account by a French prize, that there lay at St. Malo's 21 French men-of-war from 50 to 90 guns, and 12 more from 10 to 40." (*Luttrell*, 11 Aug. 1692.)

‡ The *London Gazette* (No. 2790), under date Portsmouth, Aug. 4, has the following :—"Their Majesties' ships that are come in from cruising on the coast of France have retaken several small English ships that were taken lately in the Irish seas by privateers, having Commissions from the late King James, one of which was found on board one of these prizes, being dated 22 Feb. last at St. Germains, and countersigned Melfort, by which Patrick Lambert is appointed Captain of the frigate called the *Providence*, &c."

§ The privateer *La Machine* was captured, after a three hours' fight, and brought into Kinsale by the *Centurion* on July 20. (*London Gazette*, No. 2788.)

HOUSE OF LORDS MSS.

1692.

Privateers out of Brest :—

St. Lee, 36 guns, 250 men.
Queen Mary, 36 guns, 200 men.
Le Grand Joseph, 28 guns.

Ready to sail out of St. Malo the first fair wind :—

The Brave, 18 guns. *Sun*, 24 guns.
Royal James, 14 guns. *Comte Reville*, 36 guns.

They hear from England that the English fleet was coming to besiege St. Malo, since which the merchants have removed their effects, and night and day men and women are at work about fortifying the place. The grand port and little port are boomed. 600 prisoners, being on board the exchange boats, ready to sail for England, upon the news were remanded back, and sent, closer prisoners than ever, 15 leagues into the country. The Irish Officers are now generally revolting in France, upon some discontents, and by their own report would gladly come on board any of their Majesties' ships. A master of Lyme, for speaking slightly of the Prince of Wales, was made prisoner and threatened to be hanged. They report that the ships that were burnt were burnt by themselves. King James is now at St. Germains. The army that lay at Le Hogue, with which King James was to invade England, is sent to Savoy. The ships we took came out of St. Malo the 27th of July.

(*Sir John Ashby*) :—

Russell to Admiralty :—

July 24 (*i*). Torbay. . . . Will send another squadron to relieve the ships on the French coast,* that they may come hither to take in their provisions.——July 25 (*i*). Sir John Ashby commands the squadron.——Aug. 9 (*i*). St. Helens. . . . His squadron is just in sight. [Ashby's Squadron consisted of 1 first-rate, 6 seconds, 17 thirds, 1 fourth and 4 fireships, together with several Dutch ships. (*Ralph*, II. 360). He returned to Portsmouth, after having landed some men near St. Malo's without opposition, burned some houses, and brought off some prisoners and 800 head of cattle. (*Luttrell*, Aug. 13.)]

(*Sir Cloudesley Shovell: Expedition to Dunkirk*) :—

Aug. 7 (*i.*) *Russell to Admiralty*. St. Helens. Sir Cloudesley Shovell sailed today, by the Queen's command, to the Downs, with the following squadron :—

Kent	*Charles* galley		*Roebuck*	Fireships
Breda	*Delf*	Dutch	*Owner's Love*	
Monck	*Medenblick*		*Charles*	
Greenwich	*Greyhound*		*Cygnet*	
Woolwich	*Strombolo*	Fireships	*Shark* brigantine	
Chatham	*Griffin*		*Salamander*, bomb-vessel.	

[This Squadron, with the transports and the troops under the Duke of Leinster, which had returned with Russell to St. Helens, arrived in the Downs on the 8th (*London Gazette*, No. 2791), and remained there, awaiting further orders, till the 20th, when they put to sea, and landed the forces at Ostend on the 22nd (*Ib.*, Nos. 2795, 2796). "Sir Cloudesley Shovell is arrived in the Downs from before Dunkirk." (*Luttrell*, Sept. 27.)]

(*Capt. Robinson*) :—

Aug. 13 (*i*). *Russell to Admiralty*. St. Helens. The Queen having ordered him to send a squadron of 10 ships, English and Dutch,

* Namely, Capt. Nevill's Squadron. *See* p. 218. *See also* MAIN FLEET (MOVEMENTS)— *Council of War.*

to the Downs, to receive her further commands, he has sent the following, viz. :—

English	*Monmouth*	Dutch	*Amsterdam*
	Lion		*Tergoes*
	Defiance		*Hoorne*
	Cambridge		*Stadt en Landt*
	Warspite		*Edam.*

Capt. Robinson, who commands them, has his orders, and is now under sail, with the wind at W.S.W. [Capt. Robinson commanded the *Monmouth*. (Somers' Tracts, XI., p. 459.)]

(*Newfoundland Squadron*) :—

Aug. 23 (*k*). *Russell to Admiralty*. . . . The *St. Albans*, *Bonadventure* and *Mary* galley were not mentioned in the List of cruising frigates at his disposal [see *Cruisers for French Privateers*, p. 218, Aug. 14], because they were sent with the *Spy* fireship, by the Queen's commands, last July to the French part of Newfoundland, and are probably now returning. [This squadron, which was intended to destroy the French in Newfoundland, is referred to in E. Nottingham's Narrative (Paper (*l*)) under dates June 1, 2, 5, 15 and 22 and July 13. From the Log Book of the *St. Albans*, Capt. Gillam, which is among the Admiralty Records at the Public Record Office, the following facts appear :—On 15 July 1692 the *St. Albans* is at Torbay, "*Bonadventure*, *Mary* galley, *Spy* fireship being in company with us." She is afterwards working westward, and on 31 Aug. "made Cape Race on Newfoundland." In September the same ships are mentioned as with her. The *London Gazette*, No. 2813, states that these four ships left Newfoundland on 27 Sept., and reached England at various dates between 20 and 23 Oct. Other entries in the *London Gazette* state that the *Bonadventure*, which had convoyed to the Downs on 6 July some merchant vessels bound from Topsham to London, left the Downs on 21 July with the merchant fleet bound to Newfoundland in company with the *Reserve*, *Crown*, *Sheerness* and *Signal* fireship, and reached Plymouth on the 30th (Nos. 2782, 2786, 2789) ; but these entries may refer to another *Bonadventure*, the hired ship.]

(*West Indies Squadron*) :—

July 30 (*i*). *Russell to Admiralty*. . . . The *Rupert* . . . ordered to Spithead to refit. . . .

Aug. 6 (*i*). *Russell to Admiralty*. . . . Will send the *Experiment*, *Chester* and *Ruby* to Plymouth, to be cleaned and refitted for their voyage. . . .

Aug. 21 (*k*). *Russell to Admiralty*. St. Helens. "In obedience to your Order of the 17th inst., the *Dreadnought* is ordered into Portsmouth harbour to pursue your further directions. The *Ruby* is also there to clean and refit; she had gone to Plymouth with the *Chester*, *Advice* and *Experiment*, there to be refitted, but upon a survey of the masts both of the *Ruby* and *Chester*, the mast-maker here judges it not secure to venture those ships so long a voyage with such masts, though they be serviceable enough in the Channel. This was the reason why she also did not accompany the rest. I have given strict charge to the Captain about his men. I went into the harbour yesterday to hasten the ships out. It was a very melancholy sight to see the *Dunkirk*, *Pembroke* and *Crown* without hardly ten men on board. The *Dragon* is in something a better condition, though not much. The *Rupert*, I hope, will be at Spithead in all this week." . . .

HOUSE OF LORDS MSS. 1692.

Aug. 23 (*k*). *Russell to Admiralty.* St. Helens. . . . "In my letter of the 21st I acquainted you how I had disposed of the ships which I heard were designed for the West Indies, which I hope meets with your approbation. As for the *Resolution*, I never had any orders to send her in till your letter of the 20th, the extract you sent me of my Lord Nottingham's letter. With submission, I fancy his Lordship mistakes my expression. I writ him word that the Commissioner had orders for sheathing that ship, but that I had no order from you to send her in."

Aug. 25 (*k*). *Russell to Admiralty.* Has enquired of the physicians of the Fleet about one of their attending the squadron, and has given Dr. Browne, physician to the Red Squadron, who embraces the offer, leave to go to London to prepare for the voyage, directing him to wait on the Board. When ordering the *Resolution* into harbour, he directed 150 of such men as the Captain apprehended were most likely to absent themselves from the service, to be put on board two ships in the Fleet.

Aug. 26 (*k*). *Russell to Admiralty.* St. Helens. . . . "I see you have directed the *Pembroke* to cruise for some days. If you would please to give the same orders to the rest of the ships designed for the West Indies, as they are clean, I believe they might be very serviceable."

[This squadron, which was intended to destroy the French factories in New France, Canada and Quebec, and dispossess the French of the Newfoundland fisheries, was at first intended to go under Capt. Meese (*Luttrell*, 28 May 1692), and is referred to in E. Nottingham's Narrative (Paper (*l*) below), under dates 11 and 15 June and 22 and 28 July. It was to have sailed by 1 August, postponed till the end of August, and sailed eventually on 9 Jan. 1692–3, under Sir Francis Wheeler (*Luttrell*, 10 Jan. 1692–3); and all the above-named ships, with the exception of the *Rupert*, *Dreadnought* and *Crown*, formed part of it. The Admiralty "List Book," in the Public Record Office, under date 1 Jan. 1692–3, adds to the above, as ordered for the West Indies, the *Tyger*, *Mermaid* and *Falcon* 4th rates, the *Canterbury* storeship and *London Merchant* hospital ship, the *Quaker* ketch and *Phœnix* bomb vessel, and the *Owner's Love* and *Cygnet* fireships. Dr. Browne went as physician, with a salary of 500*l.* a year (*Luttrell*, 6 Sept. 1692). The Admiralty applied to the College of Physicians to recommend a physician to the Red Squadron in his place (Calendar, 8th Report, p. 231.)]

iii. *Convoys.*

(*Merchant-men from Bilboa*) :—

Admiralty orders as follows :—

May 14 (*e*). To the Commander-in-Chief of their Majesties' ships with the convoy from Bilboa. To keep as far westward, on his return, as he can, and put into the first port in Ireland, it being hazardous to come to the Downs, as the French Fleet is in the Channel. [On May 19 news was brought to Plymouth that the merchant-ships and convoy, consisting of 3 English and 4 Dutch men-of-war, had arrived at Falmouth. (*London Gazette*, No. 2768.)]

May 21 (*e*). To Capt. Hughes, of the *Pearl*, Falmouth. To put to sea, together with the Dutch ships, if ordered to proceed with him, and join Admiral Russell, now in pursuit of the French, taking care not to be intercepted.

May 23 (*e*). To same. To take with him what men can be spared from the merchant-ships.

June 13 (*f*). To Russell. To send 2 ships to Falmouth, to convoy the Bilboa merchant-ships to the Downs, and then return to the Fleet.

[The Bilboa fleet, consisting of about 60 sail, passed the Downs for the Thames on the 19th. (*London Gazette*, No. 2777.)]

(*Merchant-ships for East Country, &c.*):—

June 6 (*f*). *Admiralty to Russell.* To send to the Downs the *Falcon* and 3 fourth-rates, for employment as convoys.

June 9 (*h*). *Russell to Admiralty.* Will send the ships, but it would be safer for them to wait for the *Royal William*, which will be ready in a few days to sail for Chatham.

June 10 (*f*). *Admiralty to Russell.* To send the *Falcon* to the Nore, without waiting for the *Royal William*, the former being one of the ships designed to convoy the merchant-ships to the East Country, which are now ready to sail.

(*Ordnance Stores for Portsmouth*):—

May 28 (*e*). *Admiralty Order.* To Capt. Johnson, of the *Kingfisher*, at the Nore. To send to Sheerness, on his way to the Downs, for such vessels, laden with guns and stores from the Ordnance for Portsmouth, as shall be ready to sail with him, and convoy them to the Downs, and then proceed according to such Orders as he will there receive. [The *Kingfisher*, with the *Discovery* and the *Despatch* galley, sailed on June 1 from the Downs to cruise before Dunkirk. (*Luttrell*, June 2.)]

(*Ordnance Stores, &c., Plymouth*):—

June 4 (*h*). Spithead. . . . Has already sent a 4th rate and some smaller ships to Plymouth, to be cleaned and refitted, but did not think them capable of towing the rafts of chests from Portsmouth thither, as desired, and is of opinion there will be great difficulty in doing it, owing to the little water the chests draw, and their great height out of it. Will appoint some of those ships, when refitted, to convoy the ships with ordnance stores at Plymouth, as directed.

(*Transports for Holland*):—

Admiralty Orders, viz.:—

June 22 (*f*). To Capt. Ward, of the *Dunkirk*,* at the Nore. To take under his care all transports in the River bound for Holland, and convoy them thither as soon as possible, and remain there till they are ordered to return, or else lie in such station on the coast of Holland as he may ride in most safely, so as to be ready to take them under his protection on their coming out of Willemstad, and on their joining him, to convoy them back to England. [9 or 10 regiments were waiting at Willemstad, to embark for England to take part in the descent. (*Luttrell*, June 16.)]

July 27 (*g*). To Capt. Robinson, of the *Garland*, at the Nore. He is, with the ships under his command and the *London Merchant*, to take under his care the transports in the River, which are going with horses to Willemstad, and are intended to be shipt on the 29th, and convoy them thither at the first opportunity, and then return to Harwich and there complete their victualling for 3 months.

(*Exeter* hulk):—

Russell to Admiralty, viz.:—

July 30 (*i*). . . . Sir John Ashby, unless ordered away from his present station, shall have directions as to convoying the *Exeter* hulk from Plymouth.——Aug. 25 (*k*). . . . Learns from Commissioner Greenhill that she will not be ready to come to Portsmouth in less than a fortnight, by which time he will send a ship to convoy her.——

* *See also under* TRANSPORTS, &C. FOR DESCENT, p. 238.

HOUSE OF LORDS MSS. 1692.

Aug. 28 (*k*). . . . Understands from the Commissioner at Plymouth that she will require 150 men to sail her. As the *Deptford* alone cannot spare this number, he has ordered the Captain of the *Plymouth*, now at Dartmouth, to go to Plymouth with the *Oxford*, and after supplying enough men out of those ships for the hulk and the *Sun* prize, to repair with them and the other men-of-war to St. Helens.

(*Ketches, &c.*) :—

May 5 (*h*). *Russell to Admiralty.* Was informed some time since by the Navy Board, that a certain number of ketches would be wanting for some service after the Fleet was at sea. If that resolution continue, he would like to know how many; for probably, by discharging the unnecessary tenders, he may be able to supply them. . . .

July 30 (*i*). *Russell to Admiralty.* . . . The *Tiger* prize has convoyed several ketches and smacks to Spithead, as directed, and the Commissioner at Portsmouth has been desired to send the Board a list of their names. The *Rupert*, when ordered thither to refit, took with her such others as could be spared from the Fleet, and Capt. Beaumont, her Commander, has no doubt sent them an account. . . .

(*The Ann*) :—

Aug. 13 (*i*). *Russell to Admiralty.* St. Helens. . . . As to the *Ann*, lately arrived at Scilly from Maryland, and bound to London, there being several Dutch and English ships cruising to the westward, if their Lordships will write to the Commanders of the English ships, he will take care that directions shall be sent to the Dutch, to convoy the *Ann*, if she is still there.

(*Dutch St. Ubes Fleet*) :—

Aug. 28 (*k*). *Russell to Admiralty.* Received yesterday by express their letter of the 26th inst., with an extract of a letter from the Commissioner at Plymouth, giving an account of the taking of two Dutch men-of-war near Mount's Bay by 3 of the enemy's ships. Received the same account from him yesterday, except that he did not mention that each of the enemy's ships was of 70 guns. Is very sorry for this unlucky accident, but it was not in his power to prevent it. The Dutch had 11 ships of war from 70 to 50 guns, and 3 fireships, which were purposely employed to look out for this convoy. . . .*

(IV.) MANNING THE FLEET.

Transport Office Protections (April 11).——Tenders called in; General Impressment (May 1).——Particular Ships: Men from Colliers (May 5).——State of Fleet; Equalization of Crews (May 10–15).——Complaint as to *Ossory* (May 15).——Volunteers on *Britannia* (May 15).——Want of seamen: remissness of Civil Officers, etc.: Receiving Ships (May 17–Aug. 21).——Muster-masters (Aug. 21).——Deserters (Aug. 23).

(*Transport Office Protections*) :—

April 11 (*b*). *Admiralty to all Commanders and Officers of their Majesties' Ships.* Complaint being made by the Transport Commissioners that men are daily impressed from vessels in their employment, notwithstanding their Protections, whereby the Transport service is much obstructed, they are to discharge any men so pressed, who have Protections mentioning their being employed in their Majesties' service, and not to impress any such men in future.

* "Plymouth, Aug. 23. About 70 sail of the Dutch St. Ubes fleet arrived here without their 2 convoys, each of 40 guns, being met off the Lizard, fought and taken by 3 French of 70 guns."—*Luttrell*, 27 Aug.

(*Tenders called in; General Impressment*) :—

May 1 (*e*). *Admiralty to Russell.* Pursuant to Queen's Order of 30 April, he is to order all tenders abroad pressing to join the Fleet at once, and bring all seamen they can meet along the coast on their way, without regard to any protections (except such men as belong to any vessels for the Fleet, with victuals and ordnance stores actually on board, and those in the transports in the Irish seas, as named in the List below), but not to stay above 24 hours after receiving this order, nor touch anywhere after setting sail towards the Fleet. Also, to send some Officers of the Fleet up the Thames and Medway, to impress all seamen, watermen, &c., they can find fit to serve, notwithstanding any protections (except such men as are in the vessels with victuals and ordnance stores for the Fleet, and those belonging to the ships going to Holland, as named below), and to take care that the ships out of which they shall press any men, be left in harbour in safety.

Subjoined is the List above referred to, giving the names, tonnage &c., of 25 ships, viz. :—

5 hired at Bristol, to carry 2,000 Irish to Hamburg; sailed to Milford 12 April.

3 hired at Bristol to carry provisions for 3,550 men to Ireland.

6 hired at Biddeford to bring foot from Ireland to Bristol ; sailed to Milford 16 April.

11 (including 2 Dutchmen) taken up in the Thames to carry recruits, clothes, &c., for Holland.

(*Particular Ships.—Men from Colliers*) :—

May 5 (*h*). *Russell to Admiralty.* Found, on weighing yesterday, the *Vanguard* could not stir for want of men, but rather than leave a ship of that consequence behind, he ordered on board her 60 men out of the *Sweepstakes*, then at Sheerness. Supposes that number will do him no hurt, if he keeps up his complement. Does not know whether he has, but is sure he has had it in his power to be extremely well-manned. The 40 men shall be removed from the *Sovereign* to the *Bonadventure* hired ship, as ordered; but that number will not be of any great help to her commander, and will only enable him to go where the smallest ship will take him, as he has now but 100 men on board. The *Oak* and *York* are still at Sheerness, wanting gunners, stores and provisions, and both of them in great want of men. Has given them orders, as directed, about pressing. . . . Finds an Order to the Admiral of the Blue [Sir J. Ashby] to state what men were taken out of the last fleet of colliers. On enquiry, he cannot hear of 30, though they believe there were fully 300 on board; but it blew a storm of wind at the time . . .

(*State of Fleet : Equalization of Crews*) :—

May 10 (*e*). *Admiralty to Russell.* To have an Account taken of the quality and number of the men in the Fleet, and to distribute them equally, for doing good service against the enemy, the Board being informed that some ships have more than their full complement, and also a greater proportion of able seamen than is needful, while others are short in those respects.——May 13 (*h*). *Russell to Admiralty.* Hopes to send the Account of men tomorrow.——May 15 (*h*). *Russell to Admiralty.* Sends the Account required. The Order as to equalizing the ships shall be complied with, as near as he can, though it will be very hard on the officers who, either out of diligence, or being well-esteemed among the sea-faring men, have got their ships well-manned, to spare them to the negligent, but this shall not hinder him from obeying their commands, nor from putting the Fleet in the best posture to meet the enemy. . . . "It is not to be expressed the trouble I have

HOUSE OF LORDS MSS. 1692.

about the men turned over at the Nore, and those ships not having had since any opportunity of getting men, I am not able to withstand the many complaints I daily have. The fighting part is by much the least trouble that an Admiral of the English Fleet meets with. There is hardly a fireship in the Fleet that has three seamen, and whenever I chide an officer for not getting men, his answer is, 'All the men I met with were protected.' It has occasioned a very great clamour, how true, I don't know. The permission you gave Lord Danby to take those men from the *Resolution* that were volunteers,* has carried all the men from her under that notion, so that I believe she has not 50 seamen on board. These are complaints that require more patience than I am blest with, not having one minute free from them. I'll do the best I can for the service. . . ." Subjoined is "An Account of the Condition of their Majesties' Ships in the Fleet as to men and provisions" [*see also* VICTUALLING], dated St. Helens, 14 May.

[The contents of this Statement, as regards the List of the Line-of-Battle (viz. 64 ships and 24 fireships) and the number of men "actually on board" on 14 May, will be found in Columns 2 and 6 of the Table below. The additional information contained in the remaining Columns is supplied from other sources, viz. :—

Col. 1. The Rates are taken from the List of May 5 (Paper (*h*), May 5), and in the case of the *Crown*, *Tiger* Prize, *St. Albans*, *Advice*, *Ruby* and *Adventure*, from that of May 7 (Paper (*e*), May 7).

Col. 3. The Captains' names are taken from the Admiralty "List Book, 6 April 1692 to 5 May 1695" (Lists of 1 May and 1 June 1692) at the Public Record Office. The names of those signing the Address of Loyalty are distinguished by asterisks, their signatures, as spelt on the Address, being given in square brackets, where differing from those in the Admiralty List Book.

Col. 4. The Guns are taken from the List of 5 May, except in the case of the *St. Albans* (50), *Crown* (50) and *Advice* (50), which are taken from the Line-of-Battle in Somers' Tracts (XI. 459), and in the case of the *Ruby* (50), *Tiger* Prize (48) and *Adventure* (44), which are taken from C. J., X. 732. With regard to the fireships, the guns in 14 cases are taken from C. J., X. 732, and the remaining 10, viz. the *Extravagant*, *Wolf*, *Hound*, *Phaethon*, *Fox*, *Hopewell*, *Thomas and Elizabeth*, *Blaze*, *Half-Moon* and *Cadiz Merchant* are assumed to have also had 8 guns each.

Col 5. The Complements are taken from the List of 5 May, supplemented, in the case of the *Crown* (230), *Adventure* (190) and *St. Albans* (280) by the List in Somers' Tracts, and in the case of the *Devonshire* (490), *Bredah* (380), *Cornwall* (490), *Ruby* (200) and *Tiger* Prize (238), by the Admiralty List in C. J., X. 732. With regard to the fireships, the complements in 14 cases are taken from C. J., X. 732, and the remaining 10, as in Column 4, are assumed to have also had 45 men each, the normal complement for fireships, as appears from the Estimate for the following year (C. J., XI. 6).

The Statement appears on the pages following.

* Luttrell, under date 24 Feb. 1690–1, has the following :—"200 seamen, lately come out of Suffolk, went in a body with a ship's pendant displaying before them, and voluntarily offered their services to the Earl of Danby, at St. James', to go on board the *Resolution* (a third-rate frigate his Lordship commands); he received them kindly, and gave them 5 guineas to drink the King's health."

RED SQUADRON.
Vice-Admiral's Division [Delavall].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
3	*Burford*	Tho. Harlow	70	460	422
4	*Centurion*	*Fra. Wivell [Wyvell]	50	200	209
3	*Captain*	*Dan. Jones	70	460	396
3	*Devonshire*	Hen. Haughton	80	490	—
1	*Royal Sovereign*	Hum. Sanders	100	815	840
2	*Royal Katherine*	*Woolfran Cornwall [Cornwell]	90	540	510
4	*Bonadventure*	*John Hubbard	50	230	216
3	*York*	Robt. Deane	60	340	—
3	*Lenox*	*John Munden	70	460	422
2	*St. Michael*	*Tho. Hopson	90	600	602
Fire-ships	*Extravagant*	Fleetwood Emes	8	45	41
Fire-ships	*Wolf*	*Jam. Greenway	8	45	35
Fire-ships	*Vulcan*	Jos. Soanes	8	45	44
Fire-ships	*Hound*	*Tho. Foulis	8	45	43
			762	4,775	3,780

BLUE SQUADRON.
Rear-Admiral's Division [Carter].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
3	*Stirling Castle*	*Ben. Walters	70	460	356
3	*Dreadnought*	*Tho. Coall [Coale]	60	365	309
4	*Crown*	Tho. Warren	48	230	220
3	*Suffolk*	Christopher Billop	70	460	382
4	*Woolwich*	*Christopher Myngs	50	280	270
2	*Ossory*	John Tyrrell	90	660	590
2	*Duke*	*Wm. Wright	90	660	640
3	*Cornwall*	Edwd. Boys	80	490	—
3	*Essex*	*John Bridges	70	460	391
4	*Deptford*	*Wm. Kerr	50	280	240
3	*Hope*	*Henry Robinson	70	460	362
Fire-ships	*Thomas and Elizabeth*	Edwd. Littleton	8	45	33
Fire-ships	*Vesuvius*	*John Guy	8	45	43
Fire-ships	*Hunter*	Thos. Rooke	8	45	36
Fire-ships	*Hawk*	Wm. Harman	8	45	—
4	*Tiger* Prize	*Robt. Sincock	48	230	168
			828	5,215	4,040

HOUSE OF LORDS MSS. 1692.

RED SQUADRON—*cont.*
Admiral's Division [*Russell*].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
3	*Grafton*	*Wm. Bokenham	70	460	380
3	*Restoration*	*Jam. Gother	70	460	380
4	*Greenwich*	Rich. Edwards	50	240	233
1	*London*	*Math. Aylmer	100	730	780
1	*Britannia*	David Mitchell	100	780	940
1	*St. Andrew*	*Geo. Churchill	100	730	730
4	*Chester*	*Tho. Gillam	50	200	172
3	*Eagle*	*Jno. Leake	70	460	390
3	*Rupert*	*Bazil Beaumont	60	400	252
3	*Elizabeth*	*Stafford Fairborne	70	460	357
Fireships	*Flame*	*Jam. Stuart [Stewart]	8	45	43
Fireships	*Roebuck*	Fra. Manley	8	45	—
Fireships	*Vulture*	*Hovenden Walker	8	45	37
Fireships	*Spy*	*John Norris	8	45	41
			772	5,100	4,735

BLUE SQUADRON—*cont.*
Admiral's Division [*Ashby*].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
3	*Berwick*	Hen. Martin	70	460	381
3	*Defiance*	*Edwd. Gourney	70	400	324
3	*Mountague*	*Simon Foulkes [Foulks]	60	355	343
3	*Warspite*	*Caleb Grantham	70	420	340
5	*Adventure*	*Tho. Dilks	44	190	145
2	*Vanguard*	Christopher Mason	90	660	580
1	*Victory*	*Edwd. Stanly	100	780	767
2	*Duchess*	*Jno. Clements	90	660	680
3	*Monmouth*	*Robt. Robinson	70	460	395
3	*Edgar*	*Jno. Torpley	70	445	352
Fireships	*Speedwell*	*Thos. Symonds [Simmons]	8	45	40
Fireships	*Griffin*	Robt. Partridge	8	45	—
Fireships	*Etna*	*Richd. Carverth	8	45	43
Fireships	*Blaze*	*Tho. Heath	8	45	45
			766	5,010	4,435

RED SQUADRON—*cont.*

Rear-Admiral's Division [*Shovell*].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
3	*Plymouth*	John Maine	60	340	—
4	*Ruby*	Geo. Meese	42	200	200
3	*Cambridge*	*Rd. Lestock	70	420	400
4	*Oxford*	*Jam. Wishart	50	240	275
2	*Sandwich*	Arthur Hastings	90	660	606
1	*Royal William*	*Tho. Jennings	100	780	880
3	*Bredah*	David Lambert	80	380	—
3	*Kent*	*John Nevell	70	460	401
4	*St. Albans*	Rd. Fitzpatrick	50	280	—
3	*Swiftsure*	*Rd. Clarke	70	420	370
3	*Hampton Court*	John Graydon	70	460	434
Fire-ships	*Phaethon*	*Robt. Hancock	8	45	40
Fire-ships	*Fox*	Tho. Killingworth	8	45	33
Fire-ships	*Strombolo*	*Tho. Urry	8	45	31
Fire-ships	*Hopewell*	*Wm. Jumper	8	45	45
			784	4,820	3,715
			2,318	14,695	12,230

BLUE SQUADRON—*cont.*

Vice-Admiral's Division [*Rooke*].

Rate.	Ship.	Captain.	Guns.	Men. Complement.	Men. Actually on board 14 May.
2	*Albemarle*	*Sir Fra. Wheeler	90	660	655
3	*Resolution*	*Edwd. Good	70	420	289
3	*Monck*	Ben. Hawkins	60	340	—
3	*Expedition*	*Edwd. Dover	70	460	430
4	*Chatham*	John Leader	50	200	—
2	*Windsor Castle*	Earl of Danby	90	660	750
2	*Neptune*	Tho. Gardner	90	660	682
3	*Royal Oak*	Geo. Byng	70	470	—
4	*Advice*	*Chas. Hawkins	50	230	193
3	*Northumberland*	*Andrew Cotton	70	460	410
3	*Lion*	*Robt. Wiseman	60	340	249
Fire-ships	*Half-Moon*	*John Knapp	8	45	—
Fire-ships	*Owner's Love*	John Perry	10	40	—
Fire-ships	*Cadiz Merchant*	Robt. Wynn	8	45	—
Fire-ships	*Lightning*	Law. Keck	8	45	—
			804	5,075	3,658
			2,398	15,300	12,133

HOUSE OF LORDS MSS.
1692.

A Summary of the foregoing, tabulated according to Rates, gives the following results :—

Rates.	Complements.			Men on board, May 14.		
	Red.	Blue.	TOTAL.	Red.	Blue.	TOTAL.
First -	(5) 3,835	(1) 780	(6) 4,615	(5) 4,170	(1) 767	(6) 4,937
Second -	(3) 1,800	(7) 4,620	(10) 6,420	(3) 1,718	(7) 4,577	(10) 6,295
Third -	(16) 6,930	(18) 7,725	(34) 14,655	(16) 4,604	(18) 5,313	(34) 9,917
Fourth -	(7) 1,590	(6) 1,450	(13) 3,040	(7) 1,305	(6) 1,091	(13) 2,396
Fifth -	—	(1) 190	(1) 190	—	(1) 145	(1) 145
Fireships -	(12) 540	(12) 535	(24) 1,075	(12) 433	(12) 240	(24) 673
	(43) 14,695	(45) 15,300	(88) 29,995	(43) 12,230	(45) 12,133	(88) 24,363

These totals, which include all the 88 ships and fireships, show an aggregate deficiency of 5,632 men. But the column for "men actually on board" is left blank in respect of 9 of the ships (viz. the 3rd rates *Devonshire*, *York*, *Plymouth*, *Breda*, *Cornwall*, *Monck* and *Royal Oak*, and the 4th rates *St. Albans* and *Chatham*) and of 7 of the fireships (viz. the *Roebuck*, *Hawk*, *Griffin*, *Half-Moon*, *Owner's Love*, *Cadiz Merchant* and *Lightning*). Deducting, therefore, for the purposes of comparison, the aggregate complements of these ships and fireships, amounting to 3,330 and 310 men respectively, the net deficiency in 72 (instead of 88) ships and fireships amounts to 1,992 men. Of these 72, only 4 (viz. the 1st rate *St. Andrew*, the 4th rate *Ruby*, and the fireships *Hopewell* and *Blaze*) have their exact complements on board, 58 have an aggregate of 2,505 men short, and the remaining 10 (viz. the 1st rates *Royal Sovereign*, *London*, *Britannia* and *Royal William*, the 2nd rates *Duchess*, *Windsor Castle*, *Neptune* and *St. Michael*, and the 4th rates *Centurion* and *Oxford*) have an aggregate of 513 in excess of their complements, leaving that total available for the purposes of equalisation.]

(Complaint as to *Ossory*) :—

May 15 (*h*). *Russell to Admiralty*. Acknowledges Order of 7 May to examine into the complaint against Mr. John Violl, first lieutenant.——May 16 (*h*). The charge seems groundless, the more so, as the Deponents, whose affidavits he sends, and who were present when the man was prest, were not interested, and took their oaths freely, and also tell him that several men now on board the *Ossory*, who had cockets and papers about them, as the Complainant had, signifying their being masters of vessels, have confessed, since being prest, they were not so, but carried the said papers about them, only to protect them from the press.

(Volunteers on the *Britannia*) :—

May 15 (*h*). *Russell to Admiralty*. Directed Capt. Mitchell [of the *Britannia*] to discharge the three Whitehaven men, as ordered ; but when the men were called to go ashore, they preferred to remain and serve. Could not but commend the spirit of glory in them, and so has left them at their liberty. . . .

(*Want of Seamen : Remissness of Civil Officers, &c. : Receiving Ships*) :—

May 17 (*h*). *Russell to Admiralty*. The men belonging to the Fleet have been a great while on board, and as the season grows warmer, great numbers may be reasonably expected to fall sick, who must be put

ashore, and unless care is taken, not half of those who recover will return. . . . A battle, sickness, or death, some or all of which must be expected this summer, will cause a great want of men, which he will not be able to supply. Recommends, therefore, earnestly, that some way may be found to furnish the Fleet with men towards the middle of the summer, or otherwise it may prove of little service to the nation. Hopes in God they may not have great occasion, but thinks it of the last consequence to provide against a misfortune of that kind. The Accounts he sent by the last post will show how far short of the established complement the number is at present. Has given such orders as may put the Fleet pretty near an equality, or at least make each ship serviceable, which now they are not, several of them having numbers, but not the tenth man a seaman. This may be done once, but it cannot be practised for the future. It will make those who appear to have been very diligent as slothful in manning their ships as others. . . .

June 4 (*h*). *Russell to Admiralty.* After speaking as to those "who signalized themselves in the late engagement," an account of whom was desired by the Board (*see* APPOINTMENTS, PROMOTIONS, &c.), he adds—"And as to those ships that were indifferently manned, it was due not to the negligence of their Commanders, but to their want of necessary helps, which, joined to their own private interest and pains, might have put it into their power to have manned their ships better. . . . P.S. I am very glad to find that you have taken care for men for the Fleet, which is in great want of them, and I know not which way to supply them."——June 9 (*h*). In answer to the Board's inquiry of 7 June,* as to what Commanders wanted the "necessary helps" in manning their ships, and what those "necessary helps" were, the meaning of his previous letter was this:—that, during the Fleet's fitting-out, there was a general complaint among the Commanders that the Vice-Admirals, Justices of the Peace, and other civil officers, so far from assisting, rather hindered the officers employed in procuring men for their ships; and this, in his opinion, has been the chief cause that several ships, whose Commanders have least interest among the seamen, are not so well-manned as others. . . .

June 9 (*h*). *Russell to Admiralty.* Understands that the *Russell* has been directed to be fitted out to lie at Spithead, for receiving such men as shall be procured for the Fleet, and he will appoint a Commander for her, as ordered, but in his opinion, she will be very much exposed by lying there, should any of the enemy's ships look in, when the Fleet is to the westward, which they may very easily do. Would propose, therefore, her continuing in the harbour. The *Boyne* may indeed be of some use by lying at the Nore, as is intended, but unless the Civil Officers send in better men than those he has seen on board the *Cornwall*, they had better not put the King to the charge of procuring them, being fitter to breed distempers on board than to do anything serviceable. [The *Boyne* had been launched at Deptford on May 21 and the *Russell* at Portsmouth on the 3rd inst. (*London Gazette*, Nos. 2768, 2772.)]

(*Muster-masters*):—

Aug. 21 (*k*). *Russell to Admiralty.* . . . Mr. Gauden, Muster-master of the Blue, has been to him, as he said he was directed, for his proceeding after the three-deck ships were called in. Told him he had no authority over him, and had received no commands how he should be disposed of.

* Not among the Papers.

HOUSE OF LORDS MSS.

1692.

(*Deserters*) :—

Aug. 23 (*k*). *Russell to Admiralty*. . . . Will order the captain of the *Devonshire* to transmit a list of prest men sent to him by his Lieutenant, who have deserted from other ships in the Fleet. It is highly necessary that some examples should be made, in hopes it might terrify the rest, their deserting as they now do being infamous. . . .

(V.) VICTUALLING.

Russell to Admiralty, viz. :—

May 9 (*h*). Off Rye. . . . Many of the ships want great quantity of their provisions. Will send account as soon as Delavall's squadron joins him. Most of the pursers of the Fleet are missing; desires to know if they have leave of absence, or if, as is possible, the Victualling Commissioners have stopped them. . . .

May 15 (*h*). St. Helens. . . . Encloses account of state of the Fleet, showing that great quantities are wanting of each species to complete the 4 months. Desires that the Victuallers, when sending down a supply of provisions, may order an Agent to make the proportions, as he has business enough without having that addition.—The Account states the number of days' provisions, in bread, beef, beer, pork, pease, oatmeal, butter and cheese, for the various ships (the names of which, and of the numbers of men actually on board, are here given) composing the 6 divisions of the Fleet. With regard to 15 out of the 88 ships, there are no details, either of men or provisions. Their names are the *Devonshire*, *York*, *Plymouth*, *Breda*, *Cornwall*, *Monck*, *Chatham*, *Royal Oak*, and the fireships *Roebuck*, *Hawk*, *Griffin*, *Half-Moon*, *Owner's Love*, *Cadiz Merchant*, and *Lightning*. The *Spy*, with 41 men actually on board, is returned as having 97 days' provisions for 45 men, details not given; and the *St. Albans* has the column for men left blank. The Account is dated St. Helens, 14 May.

May 17 (*h*). St. Helens. . . . "I also offer to your consideration whether it will not be for the service, that the Victuallers have agents in such places where Her Majesty designs the Fleet shall come to recruit with fresh water, to supply the Fleet with fresh meat for some days, and green Trade in lieu of salt. I do not know whether it would not very much forward the recovery of the sick men, put on board the hospital ships, if some officer belonging to them might have money to buy fresh meat, to help them as they mend, for as it has been hitherto practised, all the nourishment is salt beef and pork, which immediately throws them into the scurvy, whereas a little broth or fresh diet will give them strength." . . .

June 4 (*h*). . . . Has directed the Commanders to inform him which of their Pursers were away when going to sea, and if he finds them absent on frivolous occasions, he designs to dismiss them and appoint others, unless ordered to the contrary. . . .

July 24 (*i*). Torbay. Has taken in what provisions came by the Victualling ships. . . . Encloses "Abstract of Provisions in the Victualling ships," giving details of what arrived on July 18 on board 22 ships in the Fleet and 11 more at Spithead, besides 400 tuns of beer arrived at Plymouth. The totals are as follows :—Biscuits, 296,704 lbs.; Beer, 3,296 tuns, 2 hh.; Beef, 34,786 pieces; Pork, 19,990 pieces; Pease, 777 bushels, 7 gall.; Oatmeal, 585 bush., 6 gall.; Stock Fish, 86,096 lbs.; Butter, 43,506 lbs.; and Cheese, 53,333 lbs. These totals are distributed in days as follows :—

Arrived—Beer for 24,000 men	-	20 days.
„ Butter and Cheese for do.	-	9 „

Arrived—At Spithead and Plymouth, beer for 24,000 men 10 days.
„ Butter and Cheese for do. - - - 17 „
All other provisions to complete to the 27th August 1692.

On July 22 there are in the Fleet and in the Victualling Ships in the Fleet, Beer for 28 days; Butter and Cheese for 6 days, and all other provisions for 37 days.

By letter from the Commissioners dated 5 July 1692, they are likewise lading the whole remainder of the Butter and Cheese for the 4 months, which (they question not) will be with the Fleet before what is already sent will be issued, all which, when arrived, will complete the Fleet for 4 months from 8 May last to 27 August. The Abstract is signed by J. Steventon, and dated Torbay, 22 July.

Aug 9 (*i*). St. Helens. . . . Has ordered the Commanders of such ships as are here, to begin to put the ships' companies to 6 to 4 men's allowance the 10th inst., and will direct Sir John Ashby, whose squadron is just in sight, to do the same, if he has not already done so. The Fleet is only victualled to the 27th inst., but this will lengthen out the provisions about 10 days.

Aug. 17 (*k*). St. Helens. Has received Letter of 13th inst., with the List of the Ships designed for the Fleet with provisions. Those mentioned as under the care of the *St. Albans* prize are arrived, bringing enough, with what is on shore and in the Fleet, to complete the first and second-rates to Sept. 7 at whole allowance, and the third-rates to Sept. 28.

Aug. 21 (*k*). St. Helens. . . . The provisions now with the Fleet and at Portsmouth complete the 3-deck ships to Sept. 7 and the third-rates to Oct. 7.

Aug. 26 (*k*). St. Helens. . . . Some provisions arrived yesterday, which, with what the Fleet has now on board, will complete the first and second-rates to Sept. 21, and the third-rates and downwards to Oct. 21 at whole allowance, which the Fleet is now at.

(VI.) Payment of Seamen.

(*Bounty-Money*) :—

May 9 (*h*). *Russell to Admiralty.* Sir Cloudesley Shovell, in making despatch with his ship, is unable to pay his company bounty money or have their entries settled on the book, and requests that the Navy Board may be authorized to imprest 500*l.* into his hands, which he will answer shall be paid to the men. This might be done, if the money was put on board the first ship that comes to the Fleet. It is a very great complaint the men make, especially since they prove sufferers by their diligence, and 10*s.* now would do more kindness than 5*l.* at pay table.

June 7 (*h*). *Russell to Admiralty.* When the Fleet was fitting out at Chatham, the riggers and carpenters, who were entered into the yard out of the ships at their coming in last year, applied to him for their discharge, so as to receive the benefit of the Queen's bounty, by entering themselves voluntarily on board the Fleet. The Service did not admit of this, but he gave them hopes, nevertheless, of receiving the bounty. Recommends their case for direction to the Navy Board to pay the same, especially as most of the work done in ordinary was performed by them.

(*Arrears of pay*) :—

May 15 (*h*). *Russell to Admiralty.* St. Helens. Several ships want their pay. Recommends that they should be paid on their return here. The men make a very grievous complaint about it. . . .——

May 17 (*h*). If money may be sent down to pay the ships which want it, as the rest have been, it will be a very great quiet to the men's minds. The hopes of it brought many of their wives hither, who are all gone railing to London without money to support their families. . . .

(VII.) ADDRESS OF LOYALTY.

May 15 (*h*). *Russell to Admiralty*. . . . "I wish hourly for an occasion to try our officers, who, I hope, will answer what is expected from them. . . . L. Nottingham having signified to me it was Her Majesty's pleasure the Officers of the Fleet should know that, notwithstanding many reports were spread in town to their disservice, as if several of them had given assurances of their concurrences with the present disaffected persons in England, but that her Majesty was pleased not to believe there was any amongst them of such ill principles, they have signed a Paper, which they have desired me to beg the favour of you to present to her Majesty, with all imaginable assurances of their loyalty and fidelity."

Subjoined is a Copy of the Address referred to, which is printed *in extenso* in the *London Gazette*, No. 2767, and in *Burchett's* Naval History, p. 464. The 64 signatures * comprise the 54 names marked with an asterisk in the tabular Statement of the Line-of-Battle (pp. 227–9), together with Admiral Ashby, Vice-Admirals Delavall and Rooke, and Rear-Admirals Shovell and Carter, and the following Commanders, whose ships are taken from the Admiralty "List Book, 6 April 1692 to 5 May 1695" (Lists of 1 May and 1 June 1692) in the Public Record Office, their signatures, as here spelt, being given in square brackets, viz.:—

Rd. Griffiths [Griffith]	- *Mary* galley.
John Fletcher - -	- 2nd Captain of *Britannia*.
Wm. Vickars - -	- *Dragon*.
Jno. Jennings - -	- *Experiment*.
John Hailes [Hayles] -	- *Virgin* prize.

VIII. OFFENCES, COURTS MARTIAL.

Russell to Admiralty, viz.:—

(*Lieut. Holmes*):—

May 17 (*h*). Recalled his commission to Mr. Coulsea, as second lieutenant to the *Chester*, on learning that the Board had appointed Mr. Holmes, who was turned out of the *Dragon*; but has since dismissed Holmes, who came on board this day, without accounting satisfactorily for his absence, Capt. Gillam reporting that he had sent him word by his gunner, that he refused to return to his duty till he had fought Capt. Wright, his former commander.

(*Lieut. Warren*):—

June 4 (*h*). Will examine Lieut. Warren of the *Royal Katherine* as to the complaints made against him, and send him up, if so directed, to the Board. . . .——June 9 (*h*). Will send him up, as ordered, but must appoint another Lieutenant to the ship, whether he is found faulty or not, unless he returns before the Fleet sails.

* "It would have been of some use," writes Campbell (Lives of the Admirals, IV. 232, *note*), "if the names of the Captains signing the Address had been printed; of which I take notice, in order, as far as it is in my power, to prevent omissions of the like kind, which defeat us of lights in history, which are often of more consequence than perhaps the writers of the Gazettes can imagine."

(*Loss of Swallow*) :—

June 4 (*h*). Will enquire into the late loss of the *Swallow*, as soon as Capt. Bridges has found the witnesses for him at his trial for it, whom he is looking for in the Fleet. . . .

(*Loss of Happy Return*) :—

May 28 (*h*). Has been often pressed by Capt. Pickard, who was taken in the *Happy Return*,* to be tried for his behaviour, but could do nothing, having no directions. Pickard came to serve this summer with him, but not having room, being full of volunteers, he sent him on board Capt. Churchill, who reports that he not only behaved with courage during the engagement, but served with great activeness as master and boatswain, the former being unserviceable by age, and the latter wounded. He came twice to him during the fight, and had no fear about him. Sent him to sound Le Hogue Bay, when he brought a very satisfactory account, and afterwards in with Vice-Admiral Rooke, when he commanded the boats, which did all the service that was there performed. Should be glad, for the poor man's sake, he might be either condemned or acquitted.——June 9 (*h*). Will enquire, as directed, into the loss of the *Happy Return* as soon as possible. . . .

(*Pilots of York, Dunkirk, and Harp Ketch*) :—

Aug. 17 (*k*). Has directed the Judge Advocate to prepare information against the pilots, as ordered, for running their ships on shore.—— Aug. 21 (*k*). Yesterday a Court-Martial was called to examine the pilot of the *Dunkirk*. Has directed the Judge Advocate to transmit proceedings. The pilots of the other ships he heard nothing of.

(*Misconduct during Battle*) :—

June 4 (*h*). Has dismissed this day the first Lieutenant of the *Sandwich*,† and designs to dismiss tomorrow the first Lieutenant of the *Hampton Court*, for running from the Fleet with their ships during the engagement; the Commander of the former being then killed, and Capt. Graydon of the latter, rendered incapable by his hurt of taking charge of her.

(*Chester and Swiftsure*) :—

Aug. 21 (*k*). Yesterday a Court-Martial was called to examine a complaint (1) of the gunner of the *Chester*, and (2) of the second Lieutenant of the *Swiftsure*.‡ Has directed the Judge Advocate to transmit proceedings.

(*Dover*) :—

Aug. 23 (*k*). . . . Desires that James Atkinson and Thos. Braddy, who have been prisoners on board the *Burford* some months for some disorders committed on the *Dover*, may be pardoned, Capt. Harlow having certified that they behaved very well in the late engagement, wherein both of them were wounded.

(*Wolf, Goodwin prize, Captain and Deptford*) :—

Aug. 28 (*k*). Will comply as soon as possible with Order of 25th inst. for trying the late Commander and gunner of the *Wolf* hired ship, Capt. Audley of the *Goodwin* prize, and James Reeves, master's

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* "Deal letters say that Capt. Fitzpatrick in the *St. Albans* has retaken the *Happy Return*, which the French took from us some time since." (*Luttrell*, April 28.) The Admiralty had ordered Pickard's trial on March 10. (*Ib.*)

† Lieut. Bernard Darby. *See* Oldmixon, III. 73, 74.

‡ Lieut. Pike. He was tried for running into the hold during the battle, and dismissed the service, after being carried in a boat, with a halter round his neck, to each ship in the Fleet, where his crime was read. (*Luttrell*, Aug. 23.)

HOUSE OF LORDS MSS. 1692.

mate of the *Captain*. Will inquire into the information against Capt. Kerr, for beating the Clerk to the Agent for sick and wounded at Plymouth, and report, as soon as the *Deptford* arrives from Plymouth.

(IX.) APPOINTMENTS AND PROMOTIONS.

Russell to Admiralty, viz.:—

May 27 (*h*). "Here are several men in the Fleet that extremely well deserve preferment. If you have any commands to dispose of, I should be glad to know it. God be praised, in the Fleet there are very few vacancies. The nation has lost a good officer of Hastings; the King might better have spared a fourth-rate frigate, so much value I set upon him." Has given Capt. Tayler, whom the Board turned out of a ketch, his letter of recommendation. Tayler was with him in the fight, and behaved most extremely well; he is very brave, and a seaman, and well deserves a sixth-rate, if there is one to dispose of.

June 1 (*h*). Will send the names of those in the Fleet who deserve preferment. There are two fireship Captains who behaved very well, for whom he cannot provide in the Fleet, but hopes they will meet with some encouragement.

June 4 (*h*). . . . As to the account desired of the names of such as signalised themselves in the late engagement, he cannot give any particular information, for those who had an opportunity of doing their duty, did it, but without its being attended with anything remarkable or extraordinary, nor can he accuse those who could not come in to take their share, because, in his opinion, they did their utmost. . . . Will very suddenly recommend for the command of the *Charles* and *Cygnet* fireships, fitting out at Deptford, two such captains of the fireships which were burnt in service against the enemy without doing execution, as he shall find made the best attempts to burn their ships effectually. . . . Will send an account of those who deserve preferment, and hopes they will obtain the preference as employments fall.

June 9 (*h*). Captains Jumper, Littleton, Napp, Emms, Greenway, and Fowles [*see* p. 206, (*Fireships*)] have all certificates from their respective Flags of their behaviour in the time of service; their ships were lost, some by attempting to do service, and others by accidental shot, and doubtless they ought to be employed. As to rewarding, he has been much pressed to give money to those who attempted service, as well as to those who did it, but being of a contrary opinion, he leaves it to the Board's consideration. Believes they are good men and ought to be preferred, which he would have done, had he any vacancies; but having only one, he designs to fill that up by Capt. Heath. Captains Jumper, Littleton and Emms showed themselves very active in the boats at Le Hogue, after their ships were burnt, where the two latter were wounded.* Has given the Captains, Officers and seamen of the ships that burned any of the enemy's ships, a reward in money, and shall, as occasion offers, prefer them. Meanwhile he has ordered the Commanders to attend the Board.

July 30 (*i*). . . . Acquaints the Board, in reply to their letter of 23 July, that he has made Capt. Hancock Captain of the *Griffin* fireship, in place of Capt. Partridge. The *Centurion* cruising off Cape Clear, he cannot send up Mr. Meads, the second Lieutenant, to receive a Commission as first Lieutenant of the *Lumley Castle*, but he has ordered Capt. Gardner to send Lieut. Peacock of the *Neptune*.

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* "The Queen has ordered gold chains and medals to be prepared for the captains of the fireships that burned the French ships." (*Luttrell*, 26 May 1692.)

(*Convoy for Turkey Fleet*) :—

Aug. 25 (*k*). St. Helens. . . . There is a report here that Capt. Coall, in the *Dreadnought*, is to command the designed Turkey convoy, but he gives no credit to it, believing that, in case such a convoy was intended, the Board would appoint Capt. Leake, now Commander of the *Eagle*, whom he recommended some time since, and feeling sure that, if Capt. Coall had been preferred, the Board would have informed him of the fact. Besides, he flatters himself they will show some favour to his recommendations, for being well acquainted with the Commanders in the Fleet, he has also had this summer an opportunity of seeing who are most deserving of favour. It was for this reason that he so early recommended Capt. Leake (who himself would think it a favour), and hopes they will believe him, as he does, worthy, if there were occasion of having partiality shown to him.

(X.) TRANSPORTS, &c., FOR DESCENT.

(*Transports from Bristol with troops from Ireland*) :—

Admiralty to Russell, viz. :—

May 26 (*e*). To send 2 small frigates to Bristol, for convoying such transports as are there to Portsmouth.——June 1 (*e*). To send a convoy, if not already sent, towards Bristol to meet the transports and convoy them on to Portsmouth, and failing to meet them, to proceed to Bristol and convoy such transports as shall be there, bound for Portsmouth.

Russell to Admiralty, viz. :—

June 2 (*h*). Will comply with above Order of May 26, as soon as the weather will permit, but cannot yet give the two ships' names.—— June 4 (*h*). Will send a convoy to Bristol, as soon as he has any ships fit for the service, which he hopes will be in a day or two.

Admiralty Orders to following :—

May 26 (*e*).—To Capt. John Leader, of the *Chatham*, at Falmouth. To sail with his ship and the *James* galley to Bristol, and convoy the transports there to Portsmouth, keeping near the land to avoid privateers. If he meets with them, in convoy of the *Richmond* or *Dolphin*, on the way, he is to take the transports under his charge, leaving the *Dolphin* to her former orders.* The *Richmond*, whether met at Bristol or on the way, is to be left to return to Chester Water.

May 26 (*e*). To Capt. Davidson, of the hired ship *Bonadventure*, at Spithead. To sail with his ship to Bristol, and convoy the transports there to Portsmouth, keeping near the land to avoid privateers. If he meets with them in convoy of the *Dolphin*, on the way, he is to take the transports and *Dolphin* under his charge. Same order as preceding, with regard to the *Richmond*. If he meet with the *Chatham* and *James* galley, he is to take them also under his command.

May 26 (*e*). To Capt. Elves, of the *Richmond*, at Chester. To sail at once to Bristol and, together with the *Dolphin*, if there, and if not, without her, to convoy the transports there to Portsmouth, unless the *Bonadventure* or the *Chatham* and *James* galley shall arrive with him before he sails from Bristol, in which case he is to leave the transports under their charge and return to Chester Water.

June 15 (*f*). To Capt. Kercher, of the *Dolphin*, at Bristol. To continue with the transports at Kingroad, and leave them to the convoy ordered by Admiral Russell, when it arrives, and then proceed with his

* *See* Part I. (May 26) of Paper (*a*) above.

HOUSE OF LORDS MSS. 1692.

ship and the ships bound with corn for Ireland, according to his former orders.

June 22 (*f*). To the Commanders of the ships ordered by Admiral Russell to convoy the transports from Bristol to Portsmouth, at Bideford. To sail to Milford, where the transports are with the *Dolphin*, and convoy them with all possible despatch to Portsmouth, leaving the *Dolphin* to execute such orders as she has received from the Board; but if, on arriving at Milford, they find the transports already sailed, they are to execute the Orders given them by Admiral Russell. *Memo:* The like sent by express to Bristol, Barnstaple and Minehead.

June 22 (*f*). To Capt. Kercher, of the *Dolphin*, at Milford. To continue with the transports at Milford (where, it is said, he now is) until some other of the ships appointed to convoy them shall arrive there, and then leave them under their convoy, and make the best of his way to Chester Water, sending an account when he leaves Milford.

(*Shipping from the Thames.*)

June 3 (*e*). *Admiralty to Russell.* To send some ships to the Nore, with directions to bring from Deptford and transport (pursuant to Queen's orders) to the Fleet, the 40 shallops lately built in the River.——June 5 (*h*). *Russell to Admiralty.* Will send the ships, as ordered, but cannot judge of what use the shallops can be in the Fleet, till matters are in readiness for the intended descent.

Admiralty Orders to following:—

June 20 (*f*). To Transport Commissioners. The *Breda* and *Dunkirk*,* which are designed to convoy the transports to Portsmouth, being now at the Nore, they are to send the names of all the transports as are now, or shall arrive, at the Hope, so that the shallops also may be sent thither.

June 27 (*f*). To Capt. Benbow, Master-Attendant of Deptford Yard. To hasten away the shallops to the Hope, even if they have only 2 watermen each, and leave orders for the rest of the men to follow.

June 27 (*f*). To Capt. Lambert, of the *Breda*, at the Nore. To sail at once to the Downs, without waiting for the transports.

June 28 (*f*). To Capt. William Orton, of the hired ship *London Merchant*, at the Nore. To convoy to the Downs such transports as are in the River, and particularly the 40 ships (List subjoined) appointed to tow the new shallops, as also the *Carolina* and *Resolution*, laden with naval stores, all bound for Portsmouth, and on reaching the Downs, to follow the orders of the *Breda*, if there, otherwise of the *Reserve*.

June 28 (*f*). To Capt. Lambert, of the *Breda*. To take with him from the Downs the *London Merchant* and join with her in convoying from thence to Spithead the transports and store-ships, if still there, together with the *Unity* pink and *Morgan and Ann* hoy, laden with naval stores, and any other ships there and ready to sail, and then send back the *London Merchant* to the Downs for any other ships that may be ready. If the convoy has already sailed, he is to go to Spithead and await further orders.

June 28 (*f*). To Capt. Crawley, of the *Reserve*, at the Downs. To take the place of the *Breda*, if the wind allows of his sailing for Spithead before she arrives in the Downs, and if not, to leave the *Breda* to follow her orders, and remain himself in the Downs.

July 1 (*f*). To Capt. Orton, of the *London Merchant*. To take with him, under his convoy, any ships at the Nore or thereabouts, laden with Ordnance stores, which are ready to sail.

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* *See*, as to the *Dunkirk*, under PARTICULAR SERVICES (*Transports for Holland*).

July 1 (*f*). To Sir Edward Gregory, Knt., Commissioner of the Navy at Chatham. To send the Master-attendant of the Yard to Sheerness, with directions to hasten out from thence the 40 shallops to the transports at the Nore, which are to tow them to Portsmouth.

July 7 (*f*). To Capt. John Main, of the *Plymouth*, Capt. James Killigrew, of the *Sapphire*, and Capt. Thos. Warren, of the *Crown*, all in the Downs. To join the *Breda* and follow her Captain's orders for convoying the transports and shallops to Portsmouth, together with such other ships as are bound that way.

July 22 (*f*). To Capt. G. Mease, of the *Ruby*, at Spithead. To take with him for Admiral Russell, on returning to the Fleet, the 40 new shallops lately sent to Portsmouth, and supply them with what men he can spare out of his squadron, for manning them on the way, applying to Commissioner Wilshaw for the rest.

July 22 (*f*). To Thos. Wilshaw, Commissioner of the Navy at Portsmouth. To furnish Capt. Mease with what additional men he requires out of the *Breda*, *Plymouth*, *Devonshire*, and *Russell*.

Russell to Admiralty :—

July 29 (*i*). Met yesterday with the transports on their way from Portsmouth westward. . . .

(*Embarkation of Army*) :—

Admiralty to following :—

July 15 (*f*). To Capt. Mease and the Captains of the other men-of-war at Portsmouth, or coming thither, designed to join the Fleet. In pursuance of Queen's command, signified to the Board on the 13th inst. by E. Nottingham, they are to take on board so many men as shall be appointed by D. Leinster or Sir Henry Bellasis, if there should not be sufficient embarkation for all the men that are to be shipt ; and they are also to accommodate the Duke and the other general officers on board their respective ships, as they shall desire, in the best manner they can. They are to demand from the Transport Commissioners victuals for the men while on board, and issue the same accordingly.

July 24 (*g*). To Capt. Lambert, of the *Breda*, at Spithead. To receive the Duke of Leinster on board his ship, if he desire it, with his company, servants, &c., and transport them to the Fleet, leaving the victualling ships to be convoyed by such ships as Capt. Mease shall order, and on reaching the Fleet, to follow Admiral Russell's orders. If the Duke shall not desire to go in his ship, he is to convoy the victualling ships to the Fleet, according to his former Order.

July 24 (*g*). To Thos. Wilshaw, Commissioner of the Navy at Portsmouth. To have deals provided for making platforms to embark the army, the Transport Commissioners either paying, or giving receipts, for them.*

(XI.) MISCELLANEOUS.

Russell to Admiralty, viz. :—

(*J. Seares*) :—

June 4 (*h*). Spithead. . . . Has directed Capt. Munden of the *Lenox* to send up John Seares, a carpenter on board his ship, as ordered. . . .

* According to Luttrell the army consisted of 16 regiments of foot, together with 2 marine regiments, and 1 of horse and 2 of dragoons, the whole amounting to 14,600 men, provisioned for 6 months, with 4 months more to follow. They had with them 60 cannon and 20 mortars, and each soldier received 20*s.* as an encouragement. (*Luttrell*, July 19, 26.)

HOUSE OF LORDS MSS.
1692.

(*Stirling Castle*) :—
Aug. 6 (*i*). St. Helens. . . . Their Letter as to the boatswain of the *Stirling Castle* shall be complied with as soon as the ship joins him. . . .

(*King William yacht*) :—
Aug. 13 (*i*). St. Helens. . . . Has received their Order and a Letter of the 10th inst., and will direct the Commanders in the Fleet to stop the *King William* yacht, bound to Jamaica, in case they meet her.*

(*Captains Lambert and Mease : Dispute as to seniority*) :—
Aug. 6 (*i*). St. Helens. . . . Has enquired, as directed, into the dispute between Capt. Lambert and Capt. Mease, and finds, as is set forth in the Admiralty's letter, that the *Breda* came to Spithead with a broad pennant, which he kept up till, after some hours, the Commissioner at the place advised him against it. He also set the watch, though Capt. Mease rode here, commanding 10 sail of ships, and excused himself by saying he thought the command ought to have been his. Suggests that such orders should be given for the future, as may prevent anybody running into the like disorder, on any pretence whatever, and the exposing the government of the sea, by the ignorance of the officers, to foreigners who now sail in their company, one of whom told him the other day that, when he left the Downs, two broad pennants were flying at a time. Capt. Lambert, it appears, expected to have had his post from the date of his Commission in 1664, since when, till he came into the *Newcastle*, he has never been in the Service. By this rule he may, no doubt, if otherwise qualified, stand in competition with anyone for a flag. Knows nothing of the man, one way or another; but if one, who has served in the Navy in time of war, and seeks his bread in the merchant-service when peace comes, may be allowed to claim seniority, that argument will not hold; for those who have been out of the service the last Dutch war and the Algiers war, and did not offer themselves at those times, it seems to him they did not intend the King's service should have their assistance, while they could get bread in so peaceable an employment as the merchant-service generally is; and if they did offer themselves, and were not accepted, that they were thought, by those who then knew them, good for nothing.

(*Complaint by Dutch*) :—
Aug. 6 (*i*). St. Helens. . . . Admiral Almonde has been with him, and complains of two ships having been arrested by our Admiralty. Encloses copy of what is written to him concerning one of them from the Lords of the Admiralty at Amsterdam, and desires an enquiry may be made, the Dutch Admiral seeming to be very uneasy.

Enclosed is "Abstract of the Letter of the Councillors of the Admiralty, at Rotterdam, to Lieut. Admiral Almonde, written the 8 Aug. 1692," viz. :—

"There is also presented to us the enclosed request, concerning the contents whereof we have some account, as if the ship was taken in arrest by order of the Commissioners of the Admiralty, by reason that there should be laden therein some goods out of a small English vessel retaken at the same time by Capt. Wassenaer, and by reason that affair has not come directly before us, we could not write thereupon; but are of opinion that it is so great an informality, and so much contrary to the Convention made between the King of Great Britain and these States, concerning the re-taking of ships, that we presume there must be some

* She put in to Plymouth from the eastward on Aug. 13. (*London Gazette*, No. 2793.)

other reasons of the said arrest, for that it is beyond all contestation, that what is retaken by the ships of the States, must be judged in this country, and we do think that, having informed yourself of the reasons of the arrest, with aforegoing consultations with Admiral Russell, you should endeavour the relaxation, to the end the ship the *Greyhound* may come hither with the first opportunity of convoy.

(*Commanders of Sixth-rates*) :—

Aug. 17 (*k*). St. Helens. . . . Will comply with Order of 13th inst., to allow Masters to all sixth-rates with 60 men and upwards, and all their Commanders in future shall have to pass the Master's examination required in the Navy. Won't pretend to be a very good judge, but in his poor opinion, those small frigates should be commanded by such, who, without great experience, are yet good seamen, to qualify them for larger ships, which would be a sort of nursery to improve their talents.

(*Devonshire*) :—

Aug. 14 (*i*). St. Helens. . . . Has referred the Commander of the *Devonshire* to their Lordships, for orders how to proceed, she not being of the Fleet.

(*Leave of absence stopped*) :—

Aug. 17 (*k*). . . . Has taken care to prevent any Captain from giving leave of absence, on any pretence, to his men, and supposes the Commander of the *Crown*, who has been some time from his ship now in harbour, is away with their Lordships' approval.

(*Oxford*) :—

Aug. 23 (*k*). St. Helens. . . . Will require the Commander of the *Oxford*, as directed, to give account why the Swede was not required to lower his topsails. . . .

(*Correspondence*) :—

Russell to Admiralty, viz. :—

May 13 (*h*). St. Helens. . . . "I have so much business upon my hands at present, that I am not able particularly to answer the several letters and orders which I have received from you, but design to do it tomorrow." . . .

June 4 (*h*). Spithead. . . . "I have hitherto been prevented in answering several letters, which I lately received from you, but do now do it as follows. . . . If I am not so punctual in writing as I ought to be, you will, I hope, pardon it, when you consider the multiplicity of business I am forced to go through here."

(*Complaint by Russell*) :—

Aug. 26 (*k*). St. Helens. The Commander of the *Despatch* brigantine brought him this day their Lordships' order for his proceeding under the Captain of the *Crown*, of which he had no notice from their Lordships. Prays them not to believe that he takes exception at the manner of sending those orders; he only takes leave to remind them that it is not very usual to order ships or vessels from a Flag unknown to him. . . .

(*l*) 6 Dec. 1692. Abstract of proceedings and correspondence, from 26 Feb. to 2 Aug. 1692, relative to the naval operations of the Summer, especially the intended attempt on St. Malo and Brest. Printed *in extenso* in C. J., X. 749–56, but with variations occurring in the following passages, where the original omits the words enclosed within square brackets, and substitutes or adds those marked by italics, viz. :—

C. J., X. p. 749*b*, line 20 . . . "March the 5th. *Orders were sent to the Victuallers of the Navy and Commissioners*

HOUSE OF LORDS MSS.

1692.

of Transport, to provide victuals and ships for the men designed for the Descent, March twenty-seven. The Council of War having determined" . . .

p. 749*b*, line 76 . . . "to proceed to Havre-de-Grace and *so* to pursue his former Orders."

p. 750*a*, line 8 . . . "to send him Orders accordingly to sail [for] *to* the rendezvous" . . .

„ line 16 . . "7th. . . *Off the Kentish Knock.* He writes" . . .

„ line 32 . . . "and to attack the French [Fleet], if strong enough" . . .

„ line 35 . . . "and to [have] *leave* some six or seven ships" . . .

„ line 41 . . . "that, [if he had] *had he* not sailed the moment he did" . . .

„ line 46 . . . "anchors behind them. *Thirteenth.** He takes the French design of landing to be at an end" . . .

„ line 49 . . . "but six or [seven] *eight* frigates on Normandy coast will prevent it," . . .

„ line 73 . . . "Hereupon the Queen sent him the Orders of† May 17th, that by leaving some ships" . . .

p. 750*b*, line 15 . . . "May [seventeenth] *nineteenth.* I writ to him that the French were seen" . . .

„ line 22 . . . "20th. *Off Cape Barfleur.* Mr. Russell gives an Account" . . .

„ line 44 . . . "but judges the Downs more proper. [He] *May twenty-three. Mr. Russell* complains of the Queen's Order" . . .

„ line 56 . . . "to be [ready] *readier* to execute the designs he knew of," . . .

p. 751*a*, line 18 . . . "and returned the [one and thirtieth] *thirty-first.*"

„ line 40 . . . "June the first. *Portsmouth.* Mr. Russell writes" . . .

„ line 66 . . . "and proposes some [ship] *ships* to be sent to Chatham:" . . .

p. 751*b*, line 6 . . . "5th. *Spithead.* Mr. Russell writes," . . .

„ line 69 . . . "and what [might] *would* be requisite" . . .

p. 752*b*, line 36 . . . "and ride. In the Channel‡ six hours makes either side a lee shore." . . .

„ line 54 . . . "and join [him] in the attempt on St. Malo" . . .

„ line 67 . . . "they were in pain for [their] *the* ships at St. Malo;" . . .

p. 753*a*, line 21 . . . "that a squadron [if] *of* it be detached" . . .

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* *i.e.* 13th May. The marginal insertion of this date, at the beginning of a new paragraph, indicates apparently, in this instance as elsewhere, that the words which follow it formed the contents of another and separate letter of 13th May. The same occurs also at line 44 below.

† The asterisks in C. J. are here omitted, and the sentence reads straight on.

‡ In C. J. the words are punctuated wrongly as follows: "and ride in the Channel; six hours," &c.

p. 753*a*, line 39 . . . "which, if cut, the town cannot hold [it] *out*. That there is no damage" . . .
„ line 61 . . . "that, if the design be on [the] *that* place," . . .
„ line 71 . . . "that, though the French might have more *men* than we sent" . . .
„ last line . . . "prevent [their] *the* escape" . . .*
p. 753*b*, line 8 . . . "quality of the Winter Squadron, *which the Admiralty could not do*, not knowing the condition of the ships" . . .
„ line 23 . . . "hazardous to go [on] *in* with our ships" . . .
„ line 31 . . . "and observing that the Queen [resolved] *resolves* to have the destruction" . . .
„ line 35 . . . "to prevent their [getting] *going* to Brest," . . .
„ line 39 . . . "The transport ships are not [yet] come from the River" . . .
„ line 46 . . . "If the tenders are still [wanting] *wanted*, he will send them."
„ line 50 . . . "I hoped the troops [would] *will* be speedily embarked;" . . .
„ line 55 . . . "Mr. Russell had been at sea, but [was] driven back;" . . .
p. 754*a*, line 2 . . . "in my humble opinion, that should be [observed] *resolved*, before the men" . . .
„ line 74 . . . "and hopes the several accounts and informations he sent, might be useful as to the intended Descent. He sent a copy of the Instructions to Capt. Gillam" . . .†
p. 754*b*, line 3 . . . "telling him that part of the St. Malo ships were in the [Race] *Rance*, and the rest were ready to sail." . . .
„ line 30 . . . "that with the wind [westwardly] *westerly* the rendezvous should be Torbay; with the wind [eastwardly] *easterly*, to ply up" . . .
„ line 71 . . . "and destroy the ships [upon] *on* the stocks" . . .
„ line 75 . . . "and therefore should [have been] *be* the last thing to be tried."
p. 755*a*, line 1 . . . "and that he should regard [his] *this* letter" . . .
„ line 3 . . . "who will have the honour of [such] *so eminent* a service."
„ line 44 . . . "agreeable to what I had sent to *him* Mr. Russell" . . .
„ line 46 . . . "disarmed; [and] *that* some others were haled" . . .
„ line 70 . . . "and that he apprehended they were the ships [gone] from St. Malo *gone* to Brest, and that *it* would be too late" . . .

* From ("I entreated him") to ("sea and land officers") is underlined in the original, with the exception of the words ("of the French ships") which are written within brackets.

† In C. J. the words are punctuated wrongly thus: "might be useful. As to the intended Descent, he sent," &c. Capt. Gillam's Instructions related to Newfoundland.

HOUSE OF LORDS MSS.

1692.

p. 755*b*, line 7 . . . "Although no French Ships *of war* should be there" . . .*

„ line 13 . . . "that he will not be positive they were *not* French ships" . . .

„ line 21 . . . "if the wind be [westwardly] *westerly*, but if [eastwardly] *easterly*, the Fleet should remain in Torbay" . . .

„ line 45 . . . "that though the Flag Officers are of [an] opinion, that" . . .

„ line 47 . . . "if the summer season [was] *were* not so far spent" . . .

„ line 57 . . . "and resolved that the Fleet lie on [the] *that* coast accordingly" . . .

„ line 63 . . . "July the 29th. *Off Portland.* Mr. Russell writes a very long Letter, with reflections upon the whole, *which is hereunto annext.*† *Hereupon*, July the 31st, the Queen ordered Mr. Russell to detach" . . .

Endorsed as brought in this day by E. Nottingham. Another endorsement states: "Read 20 Dec. 1692. P. J." This clearly refers to its reading in the House of Commons, the initials being those of Paul Jodrell, the Clerk of that House.

(*m*) 8 Dec. 1692. List of Papers delivered to the House this day. This List consists of (i) Council of War, 27 March, 1692, ‡ and (ii) 47 Letters from Admiral Russell (with enclosures) of various dates beginning 1 May and ending 30 July, 1692. The dates of 41 of them correspond with those of Admiral Russell's letters to E. Nottingham, the purport of which is given in E. Nottingham's Abstract or Narrative (*l*).§ The remaining 6, which do not appear to be mentioned in that Abstract, are dated May 1, 4, 5, 9, 11, and June 14 (enclosing Russell's Orders to Capt. Mease). *Endorsed* as delivered in this day by E. Nottingham. *Noted:* March 16, 1692–3. Received then of Matthew Johnson, Esq. [Clerk of the Parliaments] by the hands of Mr. John Walker, the Papers above mentioned for the Earl of Nottingham by me, T. Armstrong.

(*m*[1]) 8 Dec. 1692. List (enclosed in preceding) giving dates of (i) 40 Letters from E. Nottingham, from 3 May to 1 Aug., both inclusive, and (ii) 10 Queen's Orders, from 3 May to 31 July, both inclusive. The dates of 35 of the Letters correspond with those of E. Nottingham's Letters to Admiral Russell, the purport of which is given in E. Notting-

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* The original here supplies the following, which is not in C. J.:—"*July* 26. *I writ to him that I supposed he might have already received an account from Wilkins to the same effect, which I enclosed in the Queen's Orders, which were founded on this intelligence; that I hoped Capt. Wilkins was mistaken, and that the St. Malo ships were still there, in which case her Majesty's intentions were that he should pursue his Orders of the fourteenth.*"

† This Letter is not among the Records, and the original Abstract bears no marks of its having ever been actually attached to it. It is, however, given *in extenso* in C. J., X. 721–22, as one of several papers and letters brought in by the Admiralty on 28 Nov. (*Ib.* 717). A Letter of 29 July from Russell to Nottingham is referred to in the List of Russell's Letters (Paper (*m*) below), as "The Results of a Council of War, July 28."

‡ Referred to in Nottingham's Abstract (*l*) as having determined nothing particular in relation to Brest and St. Malo. *See* C. J., X. 749 (March 5).

§ Several of these Letters are printed *in extenso* in the Commons' Journal, *e.g.*, May 27 and June 13 (C. J., X. 717); July 4 (*ib.*, 717–18); July 8 and 10 (*ib.*, 718); July 13 (*ib.*, 719); July 22 and 25 (*ib.*, 720); and July 30 (*ib.*, 722).

ham's Abstract (*l*).* The remaining 5, which are not mentioned in that Abstract, are dated May 10, 14, 23; June 10, and one of July 17. The Queen's 10 Orders are all given in E. Nottingham's Abstract, under the same dates,† as Orders to Admiral Russell.

(*n*) 10 Dec. 1692. Letter from Admiral Russell to [Sir John Ashby, Admiral of the Blue], as follows:—"Sir, I acquainted you this day that I designed to follow the enemy's fleet through the Race of Ornay [Alderney], if they put through it in the night; but having since received Lord Admiral Almond's opinion thereon, and discoursed Sir Ralph Delavall, I think it will be more safe to go about the Gasketts [Casquetts]; but if they put through the Race in the daytime, I design to follow them. I therefore send you this notice thereof, and desire that you will immediately give directions to all the Commanders in your squadron to use all possible diligence in the getting up their anchors when the tide of flood is done, and to do their utmost to come up with and destroy the enemy. I am, your very humble servant, RUSSELL." *Dated* 20 May, 1692. [Referred to in Ashby's examination this day. *See* Notes above.]

(*o*) 17 Dec. 1692. Paper of Heads reported from the Committee this day. Begins "Before the Battle"; Ends "Coast of Ireland." Printed *in extenso* in L. J., XV. 153–7, and, with several inaccuracies, in C. J., X. 756–9. The text in L. J. has also two mistakes, viz.:—

p. 153, line 13. "May 3" should be "May 13."

p. 155, line 10. "in that place" should be "on that place."

Endorsed as read 19 Dec. (L. J., XV. 153), and again, with the initials of P[aul] J[odrell], on 20 Dec. (C. J., X. 749).

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* Some of these Letters are printed *in extenso* in the Commons' Journals, viz., June 29 (C. J., X. 717), July 4 (*ib.*, 718), and July 17 (*ib.*, 720).

† Two of these Orders are printed *in extenso* in the Commons' Journal, viz., July 14 (C. J., X. 720) and July 26 (*ib.*, 722).

HOUSE OF LORDS MSS.
1692.

612. Nov. 29. Eyre's Estate Act.—Amended draft of an Act for the sale of the Estate of Antony Eyre, Esq., deceased, for payment of his debts and portions for his children. The only amendments of importance are to empower the trustees, whose names are inserted in the spaces left blank, to give two-fifths (instead of half) of the moneys to be raised by sale to Thos. Eyre, and the remaining three-fifths equally to Jane Eyre, Ann Eyre and Antony Eyre, instead of giving them each one-third of the other half. (Com. Book, 8 Dec.) [Read 1ª this day ; Royal Assent 20 Jan. 1692–3 (L. J., XV. 128, 192). 4 W. & M. c. 3. in Long Calendar.]

613. Nov. 30. Severn Fishery Bill.—Draft of an Act for the repealing part of an Act made in the 30th year of King Charles II. for preservation of fishing in the River of Severn. Whereas by an Act of Parliament made in the 30th year of the reign of the late King Charles II., intituled An Act for preservation of fishing in the River of Severn, it was amongst other things enacted, That in any part of the said River below Gloucester Bridge it shall not be lawful to use any nets above such a length and breadth, under such penalties as in the said Act are mentioned, which restraining of the length and breadth of nets is not anywhere else practised, though in much more inconsiderable rivers, and is a bar to all the ancient rights and privileges of the King, Lords and other ancient proprietors of the said river ; Be it enacted, &c., That from and after the end of this present Session of Parliament, so much of the said Act as relates to the restraining the length and breadth of nets from below the said Gloucester Bridge only shall be and is hereby declared and enacted to be null and void, anything in the before-mentioned Act to the contrary thereof in anywise notwithstanding. [Read 1ª this day (L. J., XV. 129). Dropped after commitment * on 12 Dec. (*ib.*, 143). No proceedings in Com. Book.]

614. Dec. 1. L. Lucas' Privilege (M. Carroll).—Affidavit of Maurice Carroll sworn this day, stating his arrest. *Dated* 29 Nov. L. J., XV. 131.

Annexed:—

(*a.*) Dec. 9. Petition of Marmaduke Johnson. Acknowledges his offence in serving a warrant of execution on Carroll, and prays to be discharged. L. J., XV. 139.

615. Dec. 2. E. Thanet's Privilege (J. Willisell).—Petition of John Willisell, of Silsden, co. York, to Thomas, E. Thanet. Petitioner having to serve claims for his Lordship, whose servant he has been for 16 years, on several persons in the manor who denied his Lordship's title, among others on William Jennings, a late pretended attorney of the Court of Common Pleas, though in reality he was never bred to any employ but husbandry, Jennings on 29 Sept. last caused him to be arrested and refused to discharge him until Petitioner's wife paid him 3*l.* and promised that her husband should desist from claiming his Lordship's right. Petitioner persisting in his demand, Jennings combined with one Gregson, of Manningham, in the parish of Bradford in Yorkshire, formerly a potter and now a pretended attorney, and Thomas Fearnley, his son-in-law, and John Whittingham, their bailiff, to undo him, and on 25 October last, in the absence of his Lordship's steward Mr. Thos. Carleton, caused him to be arrested at the suit of Whittingham, although he did not owe Whittingham a farthing, and kept him prisoner for

* The MS. Min. of 12 Dec. state that the Bill was "committed to the presents."

14 days till he paid 40*l.* bail, and after his discharge, Fearnley again arrested him, and kept him till he paid 20*s.* for his liberty, for which last arrest the Court of Common Pleas has ordered an attachment against Fearnley. Prays his Lordship for relief. *Unsigned.* L. J., XV. 132. [*John Willisell*, being sworn at the Bar this day, said he told those who arrested him he was his Lordship's servant. "They arrested me, pretending a debt of 40*l.* He threatens to ruin me. I owe him nothing, only an entry of claim" (MS. Min.). On 29 Dec. *Fearnley* and *Whittingham* were called in "and kneeled, and being reprimanded for their offence" (MS. Min.), were discharged, on motion by E. Thanet. (L. J., XV. 164)].

Annexed:—

(*a.*) 29 Dec. Petition of Thomas Fearnley for his discharge, he having begged the Earl's pardon, and been forgiven. L. J., XV. 164.

(*b.*) 4 Jan. 1692–3. Similar Petition of John Gregson. L. J., XV. 172.

616. Dec. 3. Oxford University (Confirmation of Charters &c.) Additional Bill.—Draft of an Additional Act for Confirmation of the Charters, Liberties and Privileges of the University of Oxford. Identical with the Bill of 11 Jan. 1691–2. *See* No. **523.**. [Read 1ª this day (L. J., XV. 133). On 10 Dec., the House, on motion, ordered Counsel to be heard for the Corporation and the University of Oxford on the 19th (*ib.*, 141). On the 13th the hearing was put off to the 23rd, when all the Judges were ordered to attend (*ib.*, 146); but on the 23rd, *E. Abingdon* and the *Bishop of Oxford* having informed the House that the Town and University had agreed, and hoped so to amend the Bill in Committee, the Bill was read 2ª and committed (*ib.*, 162). The Committee met on 2 Jan., E. Warrington in the Chair, and 9 Jan., M. Halifax in the Chair, but each time only to adjourn, the last adjournment being to 11 Jan. (Com. Book). Nothing further recorded, and the Bill thus dropped in Committee.]

617. Dec. 5. E. Manchester and another *v.* L. Brooke (Privilege).—Petition of Charles, Earl of Manchester and William Pierrepont, on the behalf of themselves and their wives, the daughters and co-heirs of the Right Hon. Robert, late Lord Brooke, deceased. The late L. Brooke, by a codicil made in 1674 to his Will of 1667, left to his two daughters, after payment of his debts and funeral expenses, all sums owing him at his death, to be paid in equal shares at their marriage. His wife Anne having renounced the executorship, the present L. Brooke became executor, as directed by the Will, but refuses to account with Petitioners for the personal estate out on securities, and insists on privilege, although only an executor and trustee for creditors and legatees. Pray for leave to proceed against him. L. J., XV. 134. [In Committee for Privileges, to whom the Petition and Answer were referred on 25 Jan. (L. J., XV. 200), L. Stamford in the Chair, Counsel were called in on 27 Jan. *Sir W. Williams* (for E. Manchester): The case is, whether privilege or not. As our legacy is a specific legacy, yet it comes after the debts and funeral expenses. We are to have an answer to those debts, &c. The question is, whether my Lord is more than a trustee. It is manifest when my Lord is joined with others, he is only a trustee, that is, executor in trust. He has nothing in his own right. We can never discover these debts, but by knowing what he will answer. *Mr. Ward*: I take this is whether L. Brooke is in the nature of a trustee, or has a right in himself. The Will was made 1667. *The*

HOUSE OF LORDS MSS. 1692.

Solicitor-General (for L. Brooke): We are to show you that the L. Brooke is interested otherwise than as trustee. This is purely a question of interest, and nothing else. *Sir Thomas Powys:* It is a question of interest between two devisees. Over and above what the L. Brooke offers to do, if a trustee has an interest as well as [being] a trustee, you allow the privilege. This is of the nature of the same as the Bishop of Coventry and Lichfield's case,* where privilege was allowed. Say the gentlemen on the other side: All the debts must be paid out of the personal estate. We say and shall prove it is to be paid out of the moneys at interest. It is purely a question of interest and nothing else. They withdraw. Part of the Will and Codicil read. *Proposed* to report that upon examination of the Petition of E. Manchester and L. Brooke's Answer, the Lord Brooke hath a claim of an interest, and it is triable at law, and that he hath privilege. *Proposed* to report that the Committee is satisfied the L. Brooke hath privilege. *Ordered* to report sustaining his privilege, &c., as in L. J., XV. 205 (Priv. Book, 27 Jan.)]

Annexed:—

(*a.*) 9 Jan. 1692–3. Answer of Fulke, Lord Brooke. The late L. Brooke, after leaving several legacies by his will, devised the rest of his personal estate to the person who, by force of the settlements recited in the will, should be owner in possession of Warwick Castle, which happens to be Respondent. Respondent has offered and is ready to account for the money out on securities at interest, deducting the debts and funeral expenses, but Petitioners are not satisfied with this, and would have all the money out at interest discharged of testator's debts and funeral expenses. Petitioner, to prevent a suit for this unjust claim, insists on his privilege, and prays their Lordships to uphold it. *Endorsed* as brought in this day. *See* L. J., XV. 200.

618. Dec. 6. Protections (E. Scarborough).—Copy Protection of John Slaughter of Rochester, Plumber, by E. Scarborough, and Certificate of Sir John Marsham, Bart., Sheriff of the said County, dated 29 Nov. 1692, that the said Protection remains entered in his Office and was allowed in the time of Thos. Adrian, Esq., being sheriff. *Underwritten* is a Certificate of Richard Gates, of Clements Inn, Gent., sworn 30 Nov. 1692 before William Gregory, that on his making search in the Sheriff of Kent's Office for the Protection, the above Copy and Certificate were delivered to him. [The House this day ordered Slaughter to be attached for counterfeiting E. Scarborough's Protection (L. J., XV. 135). No further proceedings.

The matter of Protections had been before the House on 17 Nov., when, upon reading the Protections entered in the Book, all the Lords who had Protections entered therein, were ordered to attend on the 21st (MS. Min.; L. J. XV. 114), for which day also a Call of the House had been ordered on the 14th (*see* No. **603**). On the 21st, after the House had been called, the names of the Lords who had given Protections, and of the persons so protected were read. *Moved* to declare the E. Lincoln's Protections vacant. *Mr. John Smart* was called in, and said he showed the E. Lincoln the order and he kept it. After debate, *Question* put: Whether the Protections given by E. Lincoln, and entered in the Book, shall be now vacated? Resolved in the *Negative*. Contents 27; Not-Contents 36. Tellers E. Macclesfield and E. Ailesbury.

* D. Southampton *v.* Bp. of Lichfield and Coventry. L. J., XIV. 546.

The House then ordered E. Lincoln and several other Lords to attend and give reasons for protecting certain persons. (MS. Min.; L. J., XV. 119).

On 22 Nov., *E. Huntingdon* owned his servant [Henry Griffith. L. J., XV. 120].

E. Denbigh owned one [Ford Rogers. *Ib.*, 120], and struck out [Thomas] Bowyer.

D. Norfolk disowned [Francis] Gay, and struck out [John] Browne.

E. Montague owned [William] Wing.

L. Lexington owned his Protection, [Benjamin Adams. *Ib.*, 120].

D. Northumberland said he had struck out his Protections, and asked pardon of the House as in L. J., XV. 122.

* *E. Oxford* asked the opinion of the House whether he may protect one that is his Solicitor, being a person that he can trust in his business.

The Clerk to take notice that the Protections of these following (*sic*) are vacated. House *Moved*, that no written Protections be allowed to those that do not need them. Order for E. Lincoln's attendance read.

E. Lincoln said he thought he had liberty to protect 16 servants. He was sorry. He said Drue Deane, Benjamin Rawson and Barbara Roch were not his servants, but owned Richard Coney and Peter Dugna. He asked pardon, &c., as in L. J., XV. 122. (MS. Min.)—Subsequently, *L. Keveton* (23 Nov.), *E. Carlisle* (24 Nov.), *E. Exeter* (26 Nov.) and *L. Lovelace* (28 Nov.), each attended, pursuant to the Order, and struck out their Protections (MS. Min.; L. J., XV. 123, 124, 126, 127).]

619. Dec. 6. Molyneux's Estate Act Amendment Act.—Draft of an Act for the rectifying a mistake in a certain Act of this present Parliament passed in the year 1691, intituled An Act to vest certain lands of William Molyneux, Gentleman, in Trustees for raising the sum of 2,000*l.* for paying the portions to his younger brother and sisters, pursuant to a Decree in the Court of Chancery. No amendments by the Lords. The Commons' amendments are merely drafting ones. [Read 1ª this day; Royal Assent 20 Jan. 1692–3. L. J., XV. 136, 193. 4 W. & M. c. 11. in Long Calendar. Com. Book, 9 Dec.]

620. Dec. 7. Attwood's Estate Act.—Amended Draft of an Act to enable Abell Attwood to sell some lands to pay debts and make provision for younger children. The Lords' amendments, which appear to have been offered in Committee by Sir Francis Winnington (Com. Book, Jan. 6, 18) were to insert the date of the commencement of the trust and the names of the trustees, to restrict the power of the trustees to disposing of the premises in fee, by omitting the words "or otherwise, as they shall think fit," and to add the concluding provisions for the disposal of the money raised by such sale. The Commons made no amendments. [Read 1ª this day; Royal Assent 14 March, 1692–3. L. J., XV. 136, 289. 4–5 Will. & M. c. 43. in Long Calendar.]

Annexed :—

(*a.*) 21 Jan. 1692–3. Lords' Amendments to the Bill. [Made in Committee 18 Jan.† (Com. Book), and reported this day. (L. J., XV. 194).]

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* This entry is expunged in MS. Min. The House on 7 Nov. 1691 had disallowed Protections to all Attornies and Solicitors. *See* L. J., XIV. 637, and Calendar, 13th Report, No. **423.**

† The Bill was committed on 14 Dec. to the Committee on V. Villiers' Bill (L. J., XV. 147), and the Committee was revived on 31 Dec. and 10 Jan., on which last date there were added to it the L. G. Chamberlain, E. Bath, E. Rochester, E. Rivers, and L. Wharton. (MS. Min.)

HOUSE OF LORDS MSS.

1692.

621. Dec. 7. Sir G. Parker's Estate Act.—Amended Draft of an Act to enable Sir George Parker of Ratton, in the County of Sussex, Bart., to make a settlement upon his marriage, notwithstanding his minority. The Lords' amendments (Com. Book, 12 Dec.) are to insert the word "Ratton" in the last clause, and to make a purely verbal addition. No amendments by the Commons. [Read 1ª this day; Royal Assent 20 Jan. 1692–3. L. J., XV. 136, 193. 4 W. & M. c. 9. in Long Calendar.]

622. Dec. 7. Jones *v.* Hellyer.—Petition and Appeal of Elizabeth Jones, Relict and Executrix of Cadwallader Jones, Esq., her late husband, deceased. Cadwallader Jones, father of Appellant's late husband, being seized in fee, in right of his wife Anne, of the manors of Swood and Yatton, *alias* Swood Yatton, Farrington and Milverton and other lands in Somersetshire, settled the same on 18 April, 1659, on trust, *inter alia*, after the death of himself and wife, to raise 4,000*l.* to be divided equally among their children (their eldest son excepted), at the age of 21, and 200*l.* a year for their maintenance and education meanwhile, with a proviso enabling him or his wife to revoke or alter any of the said sums or portions and appoint so much as should be revoked to be paid to any of their younger children. George Hellyer marrying their daughter Dorothy during their lifetime, it was agreed that he should have 1,000*l.* portion out of the lands, and her father gave him a bond of 2,000*l.* therefor. The father soon afterwards died, and Hellyer not being satisfied with his security, induced Jones' son, Petitioner's husband, to seal a further deed for that purpose, after inserting by artifice a clause for payment of interest. Petitioner's husband in 1687 brought a Bill in Chancery against Hellyer to be relieved, but the Lords Commissioners on 18 Oct. 1689 decreed him to pay 450*l.* with interest. Hellyer died pending the cause, leaving his wife Cecilia, Jacob Twiford, Edw. Dawes, Gerrard Newcourt and Walter Sisselle his executors, against whom the cause was revived first by Petitioner's husband, and after his death by Petitioner; and the Lords Commissioners, on a rehearing on 21 Oct. 1692, confirmed the former decree. Prays that this Decree may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by Wm. Whitelocke and James Sloane. L. J., XV. 137. [The Cause was heard, and the Decree affirmed on 7 March 1692–3, *Sir William Whitelocke* and *Sir Thomas Powys* being for the Appellant, and *Mr. Finch* for the Respondent. (MS. Min.; L. J., XV. 279.)]

Annexed:—

(*a.*) 21 Dec. Answer of Respondents. Recite the terms of the deed of settlement. Dorothy came of age in 1666, when the portion became due, but the same could not then be raised, her parents being alive. After their death, Hellyer agreed to accept from their son and heir, Appellant's husband, in lieu of the principal and interest, then amounting to 2,140*l.*, the sum of 1,700*l.*, of which 1,150*l.* was to be paid down, 450*l.* secured by two bonds, and the remaining 100*l.* on his promise. This agreement was made without any ill practice or contrivance, and was much to Hellyer's disadvantage. Appellant has been ordered to pay 632*l.* Respondents are executors in trust for Hellyer's children, and have little or no provision for them but this sum. Pray that the Appeal may be dismissed with costs. *Signed* by Cecilia Duke and the other Executors of Hellyer above named. *Countersigned* by John Keene. *Endorsed* as brought in this day.

(*b.*) 21 Feb. 1692–3. Petition of Appellants for a day for hearing, and that, as Respondents live above 130 miles from London, the day may be a fortnight hence at least. *Unsigned.* L. J., XV. 242.

623. Dec. 8. Otterington *v.* Hayes.—Petition and Appeal of John Otterington, of the city of Dublin, in the kingdom of Ireland, Gent. On the marriage of Appellant's daughter Mehitobell with the Respondent in 1674, it was agreed that Respondent should pay and secure 2,000*l.* to Appellant, which, together with the same amount added by Appellant as a portion, should be left in Appellant's hands for the purchase of lands for a jointure and maintenance for his daughter and for the benefit of the issue of the marriage, as Counsel should advise, Respondent meantime to have the interest or improvement of the whole sum for himself and wife. Respondent failed to pay his share, and was forced to apply with his wife and family for subsistence to Appellant, who maintained them till his daughter's death in 1681, after which he maintained and educated her only daughter Elizabeth, and secured to Arthur St. Leger 3,000*l.* as a portion on his marriage with her. Respondent, though he owed Appellant more than 4,400*l.*, and had never performed his part of the agreement, brought a Bill in Chancery in Ireland against Appellant, demanding the 2,000*l.* with interest. Appellant brought a Cross Bill and Additional Bill to be discharged from the articles, Respondent having failed to pay his share. The L. Chancellor of Ireland, on hearing the causes on 3 June, 1692, decreed Appellant to pay Respondent the 2,000*l.* with interest, amounting to over 1,000*l.*, from the date of marriage. Prays that the Decree may be reversed. *Signed* by Appellant; *Countersigned* by Wi. Williams and Tho. Powys. L. J., XV. 138. [The Cause was heard and the Decree affirmed on 19 Jan. 1692–3. *Sir William Williams* and *Sir Thomas Powys* were heard for the Appellant. *Mr. Ward* (for Respondent): The Lord Chancellor has made a good decree. This 2,000*l.* is to be invested in lands. Mr. Hayes exhibits his Bill to make Mr. Otterington invest it in lands. We carried part of our money to Mr. Otterington. *Mr. Sloane* (for Respondent): Shows the receipts for money received. Decree affirmed and Appeal dismissed. (MS. Min.; L. J., XV. 190.)]

Annexed:—

(*a.*) 6 Jan. 1692–3. Answer of John Hayes, Esq. Respondent was never unable to pay his 2,000*l.*, but deposited a considerable part of it. Appellant, on the other hand, never kept his own share, but invested it at higher interest, and seeing Respondent in an improving way of his estate, proposed to him for some time to take back his deposit, which he did, and Appellant agreed to pay him 10 per cent. for his own share, being the rate of legal interest then in Ireland, but on his failing to pay either principal or interest, Respondent brought a Bill against him in Chancery. As to the marriage of Respondent's daughter with Mr. St. Leger, Respondent is not concerned in any agreement then made, and disapproved of the marriage, which was effected in a clandestine way, without Respondent's knowledge and consent. Prays that the Appeal may be dismissed with costs, as vexatious. *Signed* by Respondent. *Countersigned* by James Sloane. *Endorsed* as brought in this day.

(*b.*) 7 Jan. 1692–3. Petition of Respondent for an early day for hearing, the Appeal being brought only for delay. L. J., XV. 174.

HOUSE OF LORDS MSS.

1692.

624. Dec. 9. Brocke *v.* Cutler.—Petition and Appeal of Joseph Brocke. Petitioner being entitled to a debt by Statute due from one Robert Bowman of Oxford for 100*l.*, which was esteemed doubtful, and Francis Cutler, having a bad debt of 100*l.* due by bond from Thomas and John Barney, both long dead and, as was supposed, insolvent, they agreed, being relations, to exchange the debts and delivered to each other their respective securities, but Cutler declined to have mutual assignments executed. Petitioner having discovered that Elizabeth, the relict and executrix of John Barney, had greatly wasted his personal estate, brought a Bill in Chancery in Cutler's name against her and Francis Wyndham, her second husband, and sued out administration, also at his own expense, to Thomas Barney, and afterwards administration *de bonis non* to John Barney, the said Elizabeth dying pending the suit; and also, at Cutler's request, brought a Bill against Bowman to discover his testator's estate. Wyndham sought to compound the debt on the bond, and demanded a release from Cutler, who demurred, whereupon they agreed that Cutler should have a moiety of the clear money recovered on the bond, after charges deducted, and admit Petitioner to a moiety of what should be recovered on the Statute. Petitioner compounded the debt with Wyndham for 120*l.*, which was paid and left in Cutler's hands, to be divided when the release was sealed, as to the wording of which there was some dispute. The release being afterwards settled, Petitioner called on Cutler to divide, but he refused, pretending that the agreement, being verbal, was void in law. Petitioner then brought his Bill in Chancery against Cutler and, on his death, revived it against Sarah, his widow, but the Lords Commissioners dismissed it. Pray that this Dismission may be reversed. *Signed* by Appellant; *Countersigned* by J. Somers and Ed. Northey. L. J., XV. 140. [The Cause was heard and the Decree reversed on 10 Jan. 1692–3. *Mr. Ward* (for Appellant) opens the Cause. *Sir Thomas Powys* (for Respondent): This is a matter of as mere Champerty as can be. There is no manner of writing in the case. Upon their own showing it is rank Champerty. *Mr. Crawford* (for Respondent) is heard. *Mr. Ward* heard in reply. Counsel withdrew, and the Speaker reported. *Judges* heard as to the necessity of anything in writing in the case. *L. C. Baron* [*Atkyns*]: I am of opinion there was no necessity of having this in writing. *Justice Dolben and others* of the same opinion. (MS. Min.; L. J., XV. 178.)]

Annexed:—

(*a.*) 19 Dec. Answer of Sarah Cutler, the Relict and Executrix of Francis Cutler. Respondent's testator, being related to Appellant, a common Solicitor in Chancery, employed him to get in the debt on bond, whereupon Appellant offered to exchange debts, but the testator refused. The charges of administration and of the suit against Wyndham were paid by testator to Appellant, as his solicitor. Prays that the Appeal may be dismissed with costs. *Signed by* Respondent; *Countersigned* by P. Crawford. *Endorsed* as brought in this day.

625. Dec. 10. Birmingham Grammar School.—Petition of the Old Governors of the Free Grammar School in Birmingham, in the county of Warwick, of the foundation of King Edward VI. Petitioners, notwithstanding their Lordships' reversal of the Decree they appealed from,* were prevented from taking out execution on the judgment in ejectment obtained against John Hicks, the Schoolmaster under the new Charter, the new

* *See* No. **457** (Calendar, 13th Report).

Governors having brought a new bill in Chancery for stay of proceedings thereupon, and obtained an injunction. Petitioners petitioned their Lordships against this proceeding, but the Session ended before it came to a hearing. They then exhibited an Information in the Court of Exchequer, in the name of the Attorney General, but on motion by Hicks, suggesting that he had made the new Governors defendants to a Bill previously filed by him in Chancery, it was ordered that an injunction should be awarded to stay Petitioners' proceedings in the Exchequer. The two Bills are for different matters, and Hicks is no party to Petitioners' Bill in Exchequer. Petitioners have elected a new Schoolmaster in his place, but owing to the injunction, cannot proceed at law to put him in possession. Pray that the two injunctions, which contradict their Lordships' judgment of reversal, may be dissolved. *Signed* by Sam. Carter, Wm. Colmore and Geo. Wyrley. L. J., XV. 142. [Counsel were heard on the Petition and Answer on 13 Jan. 1692–3. *Sir William Thompson* (for Petitioners) opens the Case. *Mr. Ward* (for Petitioners): We complain of the injunctions and that we ought to have the possession. *Sir Thomas Powys* (for Respondents): We are ready to hear the Cause. *Sir William Thompson* (in reply): Let it be put into a proper course to try it at law. Say some, Mr. Hicks is rightly chosen, and others he is not. Before the Cause is heard, they are saying Mr. Hicks is not rightly chosen. Counsel withdrew and the Speaker reported. After debate, *Question* put: Whether the Injunctions of the Chancery shall be dissolved? Resolved in the *Affirmative*. Contents 29; Not-Contents 27. Tellers, L. Chandos and L. Cornwallis. *Ordered* acordingly, and that it be tried at King's Bench by a Middlesex jury whether Mr. Hicks was duly elected schoolmaster or not. (MS. Min.; L. J., XV. 181). For further proceedings see Notes to Annex (*b*.) below.]

Annexed:—

(*a*.) 29 Dec. Answer of the major number of the Old Governors of the Free Grammar School in Birmingham, in the County of Warwick, of the foundation of King Edward VI., and of John Hicks, duly elected Chief Schoolmaster of the said School. By their Lordships' judgment of 2 Dec. 1691, all things relating to the School were to be guided by the Charter of King Edward VI. Respondents, accordingly, duly summoned the rest of the Old Governors under that Charter, and the majority of them present elected Hicks, whom they also discharged of an ejectment brought against him in their name, but without their authority, having been carried on by means of one Eden, a solicitor. Hicks' Bill and the injunction are in compliance with, not in contravention of, their Lordships' judgment. The Court of Chancery has appointed a receiver of the School revenues. Hicks has the priority of suit. Pray that the Petition may be dismissed with costs. Not signed by Respondents; *Countersigned* by Wm. Whitelocke and Tho. Powys, whose signatures are copied. *Endorsed* as brought in this day.

(*b*.) 15 Feb. 1692-3. Petition of the Old Governors of the Free Grammar School in Birmingham, in the County of Warwick, of the foundation of King Edward the Sixth. Petitioners, after trial of the issue as directed by their Lordships on 13 Jan. last, have obtained a verdict finding that Mr. Hicks has not been duly elected. Pray for an Order requiring delivery forthwith of the School and School-house to Petitioners. *Signed* Samuel Carter, George Wyrley, Wm. Colemore and Tho. Rowney. [Read this

HOUSE OF LORDS MSS.

1692.

day and referred to a Committee to inspect precedents, whether what is desired in this Petition has been done before. (L. J., XV. 231.) This Committee, E. Stamford in the Chair, after reading the following precedents, 27 Nov. 1690 *Dodd v. Burroughes;* 3 Nov. 1690 *Bishop of St. Asaph v. Price,* and 9 Feb. 1692 *Englefield v. Englefield,* ordered to report that they found no precedents that came up to the case of the Petitioners. (Com. Book, 17 Feb. 1692–3.) The House, on this Report, dismissed the Petition. (L. J., XV. 234.)]

626. Dec. 10. Privilege of King's Servant (T. Waller).—Petition * of Thomas Waller. Complains of having been arrested, being one of the Gentlemen of the Privy Chamber in Ordinary to the King, and charged in execution at the suit of Miles Sandys, Esq., and others. Prays for his discharge from the King's Bench. L. J., XV. 141. [On the 21st., on report from the Committee for Privileges (Priv. Book, 20 Dec.), Waller was ordered to be discharged, without paying his fees. (L. J., XV. 160.) An expunged entry in MS. Min. of 26 Nov. 1692 states: "A Petition of Thos. Waller, Gentleman of the Privy Chamber, praying to be discharged." Nothing under date in L. J.]

627. Dec. 12. Sir Rob. Atkyns *v.* Lytcott (Privilege).—Petition of Sir Robert Atkyns, Knight of the Bath, Chief Baron of their Majesties' Court of Exchequer, and Speaker of the House of Peers; as follows: "Sheweth, That y^e^ allowing and signing of y^e^ Account of their Ma^ties^ Customs and of y^e^ three new Emposicions and of receiving y^e^ accustomed fees paid by y^e^ Accountant for y^e^ signing of y^e^ same, being y^e^ sume of ten pounds for every of y^e^ said four accounts for one year ending at Michaelmas in every year, doth properly belong to y^e^ Cheif Baron of y^e^ Excheq^r^, and your Peticioner hath performed y^e^ said work and enjoied y^e^ said fees ever since hee came into y^e^ said office of Cheif Baron (w^ch^ is now near four yeares) for y^e^ severall Accounts y^t^ have been signed during y^t^ time, y^e^ last so signed being for y^e^ year ended at Mich. 1677, and y^e^ Accounts for y^e^ five yeares since are still behinde. And y^e^ three imediate p^r^decessors to your peticioner in y^e^ place of Cheif Baron did enjoy y^e^ same, w^ch^ Accounts are y^e^ proper busines of y^e^ ancient & fundamentall Court of Excheq^r^ as it is a Court at y^e^ Comon Law. And your peticioner, according to y^e^ duty of his place, hath severall times required Giles Lytcott, Esq., Comptroller Generall of y^e^ Accompts of y^e^ Customes, etc., to whom it properly belongeth, and (*blank*) y^e^ deputy Auditor, who is to cast upp and prepare y^e^ said Accompts, to attend your petiticioner (as formerly they have used to do) with y^e^ said four severall Accounts for y^e^ year ended at Mich. 1678, for your peticioner's perusall, allowing and signing of y^e^ same, and likewise to make ready y^e^ like Accounts for y^e^ four next succeeding years ended at Mich. 1692; but they utterly refuse to do y^e^ same, p^r^tending it is at their choise to attend w^ch^ of y^e^ 4 Barons they think fitte, and to pay y^e^ said fees accordingly, whereby debate and disputes are raised between y^r^ peticioner and y^e^ rest of y^e^ Barons, your Peticioner during y^e^ time of p^r^viledge of Parliam^t^ is deprived of what he hath hitherto enjoied, and their Ma^ties^ service is obstructed in y^e^ said Court of Excheq^r^. Wherefore y^r^ Peticioner humbly praies y^t^ he may not be putt out of possession of y^e^ said duty and profitt, but may bee allowed his p^r^viledge theerin, and y^t^ y^e^ s^d^ Giles Lydcott may answer y^e^ s^d^ breach of y^r^ petician^r's^

* The MS. Min. of date speak of a Certificate of the L. Chamberlain as annexed to this Petition and read with it in the House.

p^r^viledge. And y^r^ peticioner shall ever pray, &c. Rob^t^ Atkyns." *Holograph.* L. J., XV. 143. [In Committee for Privileges, to whom the above Petition was referred, the following proceedings are recorded :—

Dec. 12. Order of reference read. *Ordered* that Lytcott and (*blank*) the Deputy Auditor attend on the 19th, and that meantime Mr. Wallinger, Mr. Hall, Mr. Francis Brampson, and Mr. Petre, come to the Bar to be sworn, and afterwards attend on the 19th to give evidence on behalf of Sir Robt. Atkyns.

Dec. 21. Order of reference, and order of Committee read. *L. Chief Baron* [*Atkyns*] is heard : He states the practice of the Court as a Court of Accounts, and that the accounts are brought thither to be signed. The accounts used to be brought to the Lord Chief Baron. I say they ought to come to me. The great accounts ought to come to me; the Customs and the three Impositions. Other Barons have done it sometimes. Hales would not sign them. *Mr. Lytcott* heard : The account of the Customs has been carried to the Chief Baron. It is true these three new accounts have been caried to the L. Chief Baron. I had attended him still, if the Auditors would have carried them. I received an Order from the Treasury that I should carry the money to the Auditors. I applied to the Lords of the Treasury, and they directed me to carry money to the Auditors, which I have done. I have only acted in obedience to my superiors. *L. C. Baron* [*Atkyns*] heard : I attended the Treasury, and they say they cannot help it. *Mr. Baron Turton* * heard : The right is as much in every Baron of the Exchequer as in the Chief Baron. My Lord Atkyns' father, a puisne Judge, signed one of these accounts himself. As to the privilege, my Lord says he is in possession, and Mr. Lytcott has put him out. The officers at discretion come to one or the other. We issued orders for the Auditors to attend us with accounts who were behind. We attended the Treasury, and they told us that the accounts must come to them first, the Auditors, and we attended the Treasury again. The Lord Godolphin said : "You cannot be in possession, for it is new fees and in our discretion." *Mr. Baron Powell* heard : He says Mr. Guy read the Order out of the Book. It is a new fee, and any Baron signing the account, it is as good as the Chief. The Case is whether there is a possession, and whether a breach of privilege, and if so, then who has broken it. *Mr. Lytcott* and *the Barons* withdrew. The Judges were called in again, and the L. Chief Baron's witnesses were called in. *Mr. Hall:* There have been 16 Accounts of the Customs, and they have been signed by the L. Chief Baron and no others. I speak for 15 years. *Mr. Wallinger:* The general Accounts have been delivered into the Pipe, and they have been signed by the Chief Baron. *Mr. Tayleur :* They come through my hands, and the Declarator has been by the Chief Baron. One of the old Accounts was signed by the L. Chief Baron's father, when a puisne Judge. They withdrew. *Ordered* that it shall be specially reported to the House (Priv. Book). This Report having been made by M. Halifax the same day, *L. Godolphin*, being present, was heard as to the transactions at the Treasury in the case. *The L. C. Baron* [*Atkyns*], *Letchmere, B.*, *Turton, B.*, and *Powell, B.*, were heard. *Moved* that the Order of the Treasury made in King James' time may be seen. *Question* put : Whether this possession be such a possession as creates a privilege? Resolved in the *Negative.* (MS. Min.; L. J., XV. 160.)]

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* The Barons were heard pursuant to an Order of the House of 15 Dec. L. J., XV. 149.

HOUSE OF LORDS MSS.

1692.

628. Dec. 12. Englefield *v.* Englefield.—Petition and Appeal of Anthony Englefield, Esq. The late Sir Thomas Englefield, Bart., (father of Sir Charles, the Respondent) was by the will of his nephew Sir Francis and by several settlements entitled for life to the reversion of the manor of Wootton Bassett, Wilts, esteemed 2,000*l.* a year, after the death of his nephew's widow Lady Honora, and also entitled for life to an estate in Leicestershire, worth 1,500*l.* a year, after the death of his nephew's mother Lady Winifred, subject to the payment of 10,000*l.* or some such large sum, to the daughters of Lady Winifred, on whom the estate had been settled by her father, Robert Brookesby, Esq., on her marriage with Sir Francis, the elder brother of Sir Thomas. In 1665, Sir Thomas, being then a widower without issue and nearly 70 years of age, conveyed for good consideration his interest in Wootton Bassett to Appellant's father Anthony, his next brother and remainder-man, and to Appellant. Sir Robert Howard, having married the Lady Honora and hearing of this conveyance, made large proposals to Sir Thomas for the estate, and the latter prevailed with the two Anthonys to reconvey Wootton Bassett and join with him in conveying it to Sir Robert, from whom thereupon he received 2,000*l.* and had 400*l.* a year settled for his life out of the estate, and in consideration of the Anthonys so releasing their right and paying him 200*l.*, and of an annuity of 500*l.* out of the Leicestershire estate after Lady Winifred's death, Sir Thomas covenanted to convey the Leicestershire estate to the Anthonys, who joined in a deed for the annuity, and a fine was levied and the uses declared to Appellant's father for life and after to Appellant and his heirs, and in 1667 Lady Winifred and the Anthonys covenanted to levy a fine and suffer a recovery to William Browne and Henry Walgrave, Esqrs., which was done, and the uses declared to be for Lady Winifred for life, and after her death to Browne and Walgrave for 200 years, to secure 10,330*l.* to her daughters, and after satisfaction thereof, to Appellant's father for life, and after to Appellant and his heirs. Sir Thomas was afterwards drawn in to marry one Mary Huntly, formerly his servant, who induced him to release part of the 500*l.* annuity, and in consideration thereof prevailed with Appellant and his father to settle 200*l.* a year on her out of the same for life, in case she survived Sir Thomas, who thereupon released all right to the Leicestershire estate. Lady Winifred's daughters, Helen, Elizabeth, Katharine and Francis, together with Appellant and their respective husbands Sir Charles Walgrave, Sir George Browne, William Turvill and John Wildman, levied a fine of the Leicestershire estate, and after satisfaction of the 10,330*l.* according to the term to be granted to William Browne and Henry Walgrave, whereby Lady Winifred's daughters waived their former security and relied on the settlement for their portions, the uses thereof were declared to be for Appellant and his heirs. After the death of Appellant's father and Lady Winifred, Sir Thomas was persuaded by his wife to bring a Bill in Chancery to be relieved against the agreements, fines and recoveries, as having been obtained by fraud, but on 21 Nov., 23 Car. II., his Bill was dismissed by the Lord Keeper Bridgeman. After his death, his widow, for non-payment of the 200*l.* annuity, entered and distrained, and her son the Respondent being then only 8 years old, a Bill was brought on his behalf in 1681 by the Lady Phillippa Mohun against Appellant to the same effect as the former one, but the Lord Chancellor Jeffreys on 6 April 1687 * decreed the agreements and fines to be set aside, and that

* 1 Vernon, 443, 446. The effect of this judgment was to decide that if a contingent remainder is destroyed by a legal conveyance, and that conveyance is obtained by fraud, equity will relieve against it.

Sir Charles should hold the Leicestershire estate against Appellant. Prays that this Decree may be reversed and Respondent ordered to answer. *Signed* by Appellant; *Countersigned* by Tho. Trevor and Tho. Powys. L. J., XV. 143. [On 20 Jan. 1692–3 the *Solicitor General* and *Sir Thomas Powys* were heard for the Appellant. (MS. Min.; L. J., XV. 193.) On the 21st, Counsel being called in for the further hearing, Counsel for the Appellant were directed to recapitulate what was said the previous day. *Sir Thomas Powys* (for Appellant) states the case. *Mr. Finch* (for Respondent): We hope to give you a very clear answer to all this. Sir Thomas was very aged, and he was for settling it upon his brother Anthony. Smith was the man that treated this purchase, and he was to have a fourth part of the estate; —nay, he was to have more. It was treated as a purchase, and Sir Thomas Englefield was cheated. He had the Leicestershire estate in him before he treated. Consider how he comes in for the Wilts estate. For the Leicestershire estate here is 200*l.* per annum and a little more, which they could not secure. They said 400*l.* is the most. If a fine be levied where a man is a trustee, the conveyance does not bar that trust. In the Case of *Smith* v. *Coleby* * the House judged this was relieved in Chancery. Upon an Appeal here you were of opinion it was a cheat. They only wait to know whether your Lordships will say they shall cozen by a fine. *Mr. Ward* (for Respondent) is heard. They read several deeds and the decree and articles in the Cause. Anthony Englefield's Answer to Smith's Bill is read, and several Depositions. *The Solicitor General* is heard to reply, and they offer to read a deed of settlement and depositions taken thereon, as to making the son a Defendant. Counsel withdrew, and the Speaker stated the Case, whether the depositions desired shall be read. The Lords were satisfied they were read in Chancery. Counsel were called in and told the Appellants may read the depositions. *Mr. Finch* and *Mr. Ward* heard to reply for Respondent. *Sir Thomas Powys* heard to reply for Appellant. Counsel withdraw. *Question* put: Whether the Report shall be now made? Resolved in the *Affirmative.* Contents 35 (including 7 Proxies); Not-Contents 27 (including 3 Proxies). Tellers: E. Bridgewater and E. Feversham. The Speaker reported. After debate, *Question* put: Whether the Decree shall be reversed? Resolved in the *Affirmative.* *Ordered* accordingly. (MS. Min.; L. J., XV. 194.) For further proceedings see Notes to Annexes below.]

Annexed:—

(*a.*) 21 Dec. Answer of Charles Englefield, Esq. Sir Thomas, Respondent's late father, being tenant for life (in reversion after the death of Lady Winifred his elder brother's widow), with remainder to his first and other sons in tail, with remainders over, of the Leicestershire estate, and being unmarried and in trouble and a prisoner in the King's Bench for debt and of a mean understanding, Anthony his younger brother and his son, the Appellant, by fraud, got conveyances from him of the estate. These conveyances were set aside as fraudulent and possession delivered to Respondent. Appellant, to avoid the account of profits, went abroad, where he still remains. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Filmer. *Endorsed* as brought in this day.

* L. J., XIV. 86.

(*b.*) 9 Feb. 1692–3. Petition of Appellant. Petitioner, since their Lordships' judgment in his favour, has applied to the Court of Chancery to be restored to possession and for an account of profits received under the reversed Decree, but the Court have postponed the matter pending further directions from the House. Prays their Lordships to direct the Court to restore possession to him. [The House on this Petition ordered the Court of Chancery to direct possession to be given to Appellant, pursuant to the Judgment of 21 Jan. (L. J., XV. 222.)]

(*c.*) 25 Feb. 1692–3. Petition of Respondent. Since their Lordships' judgment, Appellant, on petition to the House, has obtained an Order for the Court of Chancery to put him in possession, on mistaken suggestions that the Court had put him out, and put Respondent in, and he has also brought his ejectment at law. At the hearing of the Appeal, Appellant was was allowed to read certain depositions in a cause in Chancery between Sir Thomas Englefield, Plaintiff, and Anthony Englefield and Appellant, Defendants, but the like benefit of reading the depositions in the same cause was denied to Respondent, in regard they had not been read below, though Respondent had an order to read them, and the facts thereby proved were opened and admitted, and influenced the Chancellor to make the Decree. Prays to be heard by Counsel, to show cause why possession ought not to go. L. J., XV. 249. [In Committee for Privileges, to whom the above Petition was referred this day, to inspect precedents, the following proceedings are recorded:—6 March, E. Stamford in the Chair, Order of reference read. A debate concerning calling in Counsel or not. [The following precedents were considered]:—

1660, July 16. E. Derby put into possession. [L. J., XI. 92.]

1660, July 24. Ordered, that the order for putting into possession be suspended. [*Ib.*, 104.]

1660, Sept. 1. Thomas Withe. Order for vacating order. [*Lewis* v. *Withe.* L. J., XI. 152.]

1660, Sept. 6. *Stone* v. *Cordell.* The general order revoked. [*Ib.*, 159.]

1667, Nov. 25. *Pettit* v. *Hyde.* Referred to Merchants. [L. J., XII. 147.]

1678, May 31. *Neilder* v. *Kendall.* Leave given to proceed below. [L. J., XIII. 234.]

1690, April 30. *Dodd* v. *Burrows.* Read; possession restored. [L. J., XIV. 480.]

1690, Nov. 27. *Dodd* v. *Burrows.* Burrows attached. [*Ib.*, 568.]

1690, Dec. 18. *Dodd* v. *Burrows.* Former order repealed, so as not to bar the Petitioner from prosecuting his title at law. [*Ib.*, 596.]

1691–2, Feb. 24. *Tooke* v. *Sir R. Atkyns.* Ordered to be reheard in Exchequer. [L. J., XV. 92.]

1692. Dec. 9. *Trosse* v. *Pearce.* The Chancery to proceed *de novo* upon the deed. [*Ib.* 140.]

Counsel called in. *Mr. Ward* (for Petitioner): We will show precedents, and hope they will come up to this case, where you have varied from your former orders. In *Sedgwick* v. *Hitchcock* 20 Dec. 1690, 21 Nov. 1691 [L. J., XV. 600, 657], you

ordered the decree to be reversed and Sedgwick to be let in, the estate to be sold, &c. You have found it reasonable to alter your order. Instances case of *Dodd* v. *Burrows*. In *Trosse* v. *Pearce* it was ordered to go back to Chancery and a deed to be used there. There was no judgment passed in *Tooke* v. *Sir R. Atkyns*. In *Dodd* v. *Burrows* you directed it to go back again. My client does not desire to make use of any depositions but what were in Chancery, though not used. [Speaks to case of] *Pettit* v. *Hyde*, Dec. 6 [L. J., XII. 159.] *Sir William Whitelocke:* The precedents they have instanced will not come up at all. *Sedgwick* v. *Hitchcock* does not come up at all to this case. The Chancery decrees Mr. Englefield out of possession, and you say they did wrong, and reverse it and restore possession. Bankruptcy is always triable by law. *Dodd* v. *Burrows* does not come at all to this case. In *Pettit* v. *Hyde* after the first decree, say they, you went further, and so you do. You amended the order only to put him into possession again. By the same reason this Cause may be reheard, and then if anything is not fully read, all must be reheard again. *Sir Thomas Powys:* Mr. Ward does not tell you what he prays. He does not ask to be reheard. I do suppose he will not say he would have it go to Chancery to see if you have done right or not. In consequential matter you have not altered your order. *Sedgwick* v. *Hitchcock* is not in this case. You only gave him leave to try his title at law. In *Tooke* v. *Sir R. Athyns* there was no judgment. As to *Trosse* v. *Pearce*, there is nothing in this case; no footsteps of this in it. As for the possession, we have it already, and the Plaintiff is restored and justly too. *Mr. Ward* (in reply): They say they have the possession; we say we have it. In *Neilder* v. *Kendall*, 31 May 1678, a subsequent order was made. As to the depositions, we were advised that no depositions could be used here but what were used below. We pray this deposition was not read. Counsel withdraw. The precedents of *Neilder* v. *Kendall* and *Pettit* v. *Hyde* [considered]. *Moved* to report: That upon inspecting precedents, the Committee are of opinion that the Court of Chancery be ordered to hear these matters then in proof in the Cause which were not read at making the decree, and no other. On *Question*, Contents 20; Not-Contents 7. *Ordered* to report on Wednesday next. (Priv. Book, 6 March 1692–3.)

This Report having been made on 8 March, the Petition was recommitted to the Committee for Privileges, who were ordered to meet the next day. (MS. Min.; L. J., XV. 281.)

In the Priv. Book of the 9th the following entry appears: "L. Longueville in the Chair. Ordered to report to the House that the Committee was not full enough to proceed, and therefore desire the further directions of the House." No entry of this Report having been made appears in either MS. Min. or L. J., but on the 10th the House made an order to consider of precedents in the matter on the 13th (MS. Min.; L. J., XV. 284), on which day, the last-named order being read, it was *Moved* to hear Counsel. The case of *Neilder* v. *Kendall*, 31 May, 1678, read. *Moved* to call in Counsel on these points: (1) Whether there were not proofs offered below in publication, which were not heard. (2) What they can say against Sir Charles Englefield's Petition, why it should not be heard. *Moved* to be sent down to be heard in Chancery upon the proofs not heard here.

HOUSE OF LORDS MSS.

1692.

Ordered that the Cause be reheard in Chancery, &c., as in L. J., XV. 286 (MS. Min.).]

629. Dec. 12. Bromhall's Estate (Fleet Prison, etc.) Act.—Amended* draft of an Act [for the sale of the Office of the Fleet and Mansion House where the said Office is now kept, and thirteen houses adjoining, and the office of the custody of the Palaces at Westminster and the shops in Westminster Hall to the said Office belonging, for payment of debts] *for the sale of such interest as Thomas Bromhall, an Infant, has in the Office of the Warden of the Fleet and in thirteen houses adjoining, and in an Office of the custody and keeping of the Palace at Westminster, for the more effectual payment of debts.* The draft, as amended, is identical with the Act, with the exception of the Commons' amendments, which are noted below.

After a preamble, the amendments in which are formal and consequential, the Bill enacts (Clause 1 of Bill: Sect. 1 of Act) that the *interest of the said Infant in the* Office of Warden of the Fleet and the said mansion house and thirteen houses, "and also [all that the Office and custody of the keeping the palaces at Westminster in the county of Middlesex, commonly called the Old and New Palace, and also] *of, in or to all that office of the custody and keeping of the Palace at Westminster, in the County of Middlesex, in such manner as the same are or hath been lawfully held and enjoyed by the Wardens of the Fleet, together with* all shops, stalls and standings [as well within as without the Palaces of Westminster aforesaid] to the said Office [or offices] belonging [or appertaining, and also all the letting and setting of the said shops, stalls and standings]" shall be vested in Cavendish Weedon, of Lincoln's Inn, Esq., Giles Duncombe, of the Inner Temple, Esq., and William Fanshaw, of St. Martin's-in-the-fields, Esq., "and their heirs, [and they, the said Cavendish Weedon, Giles Duncombe and William Fanshaw shall be, and are hereby adjudged and declared to be, seized of all the said offices, houses and premises, with all jurisdictions, fees, privileges and hereditaments to the same and every of them belonging in fee simple] upon trust" to sell the same for the best price they can get; "and the said moneys arising by such sale, and also all the meane profits and arrears of the premises shall be employed [in manner as hereafter expressed, viz.:—First, to pay and satisfy the executors of Henry Norwood, deceased, what shall appear to be a real charge upon the aforesaid offices and premises, when the account now depending in Chancery betwixt them and the said Thomas Bromhall, the Infant, shall be finally settled, and in the next place to pay the said Richard Manlove, Esq., the present Warden, what shall appear due to him (if anything) when the account now depending in Chancery betwixt him and the said Thomas Bromhall, the Infant, shall be finally settled, and in the next place to pay the executors of Henry Johnson, deceased, so much as shall appear due to them, when the account betwixt them and the said Thomas Bromhall, the Infant, now depending in Chancery, shall be finally settled, and in the next place to pay the said Dame Mary Lisle, John Clement, Catherine Venne, Dorothy Baxter, and to the executors of Sir Edward Low their respective proportions of the aforesaid sum of 2,299*l.* principal money, as the same shall appear to be proportionably due to them, reference being had to the Indenture of mortgage made between the said Thomas Bromhall, Citizen and Draper of London and the said John Clement aforesaid, the same bearing date the third day of May in the year of our Lord 1678] *for the payment*

* Omissions are shown by square brackets and additions by italics.

and satisfaction of what shall appear to be due and justly owing from the said Thomas Bromhall the Infant to the respective mortgagees aforesaid, and also for the payment and satisfaction of the aforesaid several creditors, according to the priority of their several just demands, when the same shall be finally stated and settled.

(Clause 2 of Bill).—["And for the better security of the respective creditors and mortgagees aforesaid, Be it enacted by the authority aforesaid, that the said offices and premises aforesaid shall not be discharged of the said mortgages and debts aforesaid, notwithstanding the sale of the said Trustees, unless they, the respective creditors or mortgagees aforesaid, or their executors, administrators or assigns, who either have or may have any interest in the same, do give their respective receipts for the respective sums intended by this Act to be paid, of which the purchaser or purchasers is, at his or their peril, to take care."]

(Clause 3 of Bill. Sect. 2 of Act).—"And as for and concerning the remainder of the [said purchase] money *arising by such sale* after the said mortgages and debts aforesaid, according to the intention of this Act, are satisfied; Be it enacted by the authority aforesaid, that William Bromhall, *of Northwood Hall in the county of Salop, Gentleman*, father of the said Infant,* shall receive the same," etc.

(Clause 4 of Bill).—["And be it further enacted by the authority aforesaid, that Richard Manlove, Esquire, shall or may enjoy the benefit of his said grant for life of the aforesaid offices under the several covenants, conditions and exceptions made betwixt him and the aforesaid Thomas Bromhall, deceased, and not otherwise, notwithstanding the sale of the said Trustees or anything in this Act to the contrary contained notwithstanding."]

(Clause 5 of Bill).—["And be it likewise further enacted by the authority aforesaid, That until payment of what shall be finally settled to be due upon the account depending as aforesaid from the said Thomas Bromhall, the Infant, to the said Richard Manlove, Esquire (if anything thereupon shall appear to be due), that the said Richard Manlove, Esquire, shall continue in the possession of all the said offices and premises in as large and ample manner to all intents and purposes as he should or might have done if this Act had never passed, and not otherwise, anything in this Act contained to the contrary notwithstanding."]

(Clause 6 of Bill).—["Provided always that nothing in this Act contained shall hinder the said Thomas Bromhall, by his father William Bromhall, or any other creditor or mortgagee mentioned in this Act, to prosecute or defend the several respective suits now depending in Chancery, or commence any new suit that hath or may have any relation to the premises intended by this Act to be sold, in the same manner as they should or might have done, if this Act had not been made."] †

(Clause 7 of Bill).—["Saving to their Majesties, their heirs and successors, and all other person and persons whatsoever, bodies politic and corporate, and their respective heirs and successors, executors and administrators, other than the said Thomas Bromhall, the Infant, and his heirs, all such right, title, estate and interest they or any of them now have or hereafter shall or may have, of, in or to the premises, or any part or parcel thereof hereby directed to be sold, in as large and

* The Commons added here: ("Thomas Severne, of Wallop, in the county of Salop, Esq., and Ralph Harper, of Pontsbury, in the county of Salop, Clerke"), and made other consequential amendments in this Section, all of which appear in the original Roll. C. J., X. 839.

† Here are noted for insertion Provisoes ✠, A, B, and C (Annexes *h*, *i*, *k*, and *l* below), the last of which, after amendment, superseded Clause 7 of the Bill.

HOUSE OF LORDS MSS. 1692.

ample manner to all intents and purposes, as if this Act had never been made, anything herein contained to the contrary hereof in any wise notwithstanding."]

[Read 1ª this day (L. J., XV. 143). On 7 Jan. 1692–3 Counsel were heard on the Petitions of Baldwin Leighton* of 19 Dec. (*Ib.*, 152), and of Thomas Bromhall, Infant, by his Guardian † of 31 Dec. (*Ib.*, 168). *Sir William Williams* (for Leighton): opened the case. He [Manlove] has offended in many particulars, and by Inquisition has forfeited his office. *Mr. Holles:* There is a forfeiture by Inquisition, and the Bill establishes those things that formed the Inquisition. The Inquisition is quashed, I confess, but it was for the manner of the thing. *Sir Francis Winnington* (for the Bill): They desire something foreign to the Bill, and their Petition desires little, not the Bill to pass or not. The Inquisition was quashed with as great solemnity as may be, and the two Lord Chief Justices were there. They pray they know not what, but something they would have. His right is saved, if he has any. *Sir William Williams* reads the Savings in the Bill and is heard to them. *Counsel* said if the word "forfeiture" was in the Bill, they could not except. Counsel withdrew, and the Speaker having reported, the Bill was read 2ª and committed, one Counsel on each side to attend the Committee, and care to be taken of the shops in Westminster Hall, and to receive any proviso offered by the Lord Chamberlain. The Bill was was then read 2ª and committed. ‡ (MS. Min., 7 Jan.; L. J., XV. 174).

In Committee, on 12 Jan., E. Rochester in the Chair, the Bill was read entire and the Parties called in. *Mr. Ward* (for the L. Chamberlain and the House-Keeper) offers some amendments and a Proviso. *Mr. Tilly* (for Bromhall) says they shall agree to the Proviso, &c. *Sir William Williams* (for Col. Leighton) says none of the limitations in the grant to Sir [Jeremiah] Whitchcot have been observed. He states Col. Leighton's case, and offers a Clause and Proviso, which he reads. They withdraw. The first clause offered by Sir W. Williams is read. *Sir Edward Nevill* and *Sir Wm. Gregory* are sent for in, and asked whether Manlove, who has forfeited his Office, has forfeited the same to his Majesty or to the person that has the reversion. *Sir E. Nevill:* It requires a little consideration. Generally, the next in reversion have the benefit, but he cannot give a sudden opinion. *Sir W. Gregory:* This is an office of trust. It will affect him that has the reversion. The *L. Great Chamberlain* offers a clause, which is received. The Counsel are called in. The Clause is read again. *The Counsel* as well for Leighton as Bromhall are heard to state the case. *Ordered* that Counsel on both sides attend the said Judges. (Com. Book, 12 Jan.)—On 19 Jan., E. Rochester in the Chair, *Mr. Justice Gregory* and *Mr. Justice Nevill* declare they are of opinion, if there be a forfeiture, it belongs to the reversioner and not to the King. *Ordered*, that the Counsel for the L. Great Chamberlain and for the Warden of the Fleet meet and prepare amendments (Com. Book, 19 Jan.)—On 20 Jan., E. Rochester in the Chair, the Parties are called in. The Bill read by paragraphs. The Amendments prepared by the L. Great Chamberlain's Counsel and Counsel for the Bill are read and agreed to be inserted. The Agreement between John Clement, Ann Turnour, Susan Low, Mary Lisle, Katherine Venne, Eliz. Low, Dorothy Baxter and

* Annex (*a*).

† Annex (*b*).

‡ The MS. Min. of 9 Jan. state that L. Willoughby de Eresby was added to the Committee that day. His name, however, appears in the List given in L. J. of the 7th. Two other entries in MS. Min. of 10 and 18 Jan. state that the Committee was revived on those days for the 12th and 19th.

William Bromhall and Thos. Bromhall is perused. Agreed to 3rd line of 13th sheet. A Petition of Thomas Richardson and others,* praying to be heard, is read. *Ordered* that they be heard on the 24th inst., either by themselves or Counsel, as also all others concerned. (Com. Book, 20 Jan.)—On 26 Jan., E. Rochester in the Chair, the Parties are called in. *Mr. Richardson*, who petitioned to be heard, says for so much as concerns himself and his wife he withdraws his Petition, and desires not to be heard. A Petition of Col. Leighton, with Orders and Affidavits annexed,† is presented, and the Petition read. They withdraw. They are called in again, and the Petitioner is told that this is not a proper time to hear him; that, if he desires to be further heard, he may apply to the House upon the Report of the Bill, if he thinks himself aggrieved. A Proviso on behalf of the Bill, marked ✠ ‡, a Proviso of the L. Great Chamberlain's marked A,§ and a Proviso of Mr. Engleton's, the House-Keeper, marked B ‖ are read and agreed to be inserted before the General Saving, as also a Proviso of Col. Leighton's marked C.¶ Another Proviso of Col. Leighton's marked D is read and rejected.** Bill ordered to be reported with amendments. (Com. Book, 26 Jan.).

The Bill was reported on 28 Jan., when the amendments were agreed to (L. J., XV. 205). It was returned from the Commons agreed to with amendments (C. J., X. 839) on 4 March (L. J., XV. 274), to which the Lords agreed on the 6th (*ib.*, 277), and received the Royal Assent on the 14th (*ib.*, 289). 4–5 W. & M. c. 37 in Long Calendar.]

Annexed:—

(*a.*) 19 Dec. Petition of Col. Baldwin Leighton. Charles II. granted the Office of Warden of the Fleet to Sir Jeremiah Whichcot in fee, which office by assignments and deputations came to Richard Manlove, Esq., and appears to be forfeited and reverted to the Crown by Inquisition in the Court of Chancery. Their Majesties in 1690 granted it to Petitioner, as a reward for his services, but the grant, after passing the Privy Seal, has been stopped by the Lords Commissioners of the Great Seal, on a *Caveat* entered by Manlove and one Johnson. The Lords Commissioners, after a hearing on 17 July following, postponed their decision till his Majesty was attended and his further pleasure known. The King signified his pleasure several times to the Lords Commissioners for the grant to pass, and Petitioner solicited them to the same effect, but was refused, without any reason being assigned. He then petitioned the King for a hearing in Council, and on 6 Nov. following the Lord Commissioner Hutchins attending, informed the King that they had decreed the inheritance of the office to Johnson, a tailor, whose only claim is a debt of 396*l.* for tailor's work, which decree was soon after reversed by the House.†† The King in Council having ordered the Lords Commissioners, with the assistance of Sir G. Treby, the Attorney General, to hear all

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* Annex (*c*).

† This Petition to the Committee is not among the Papers, but the Orders, &c. annexed to it appear to have been transferred to a later Petition of 28 Jan., which, as directed by the Committee, was presented to the House. *See* Annexes (*f*) to (*f*[6]).

‡ Annex (*h*).

§ Annex (*i*).

‖ Annex (*k*).

¶ Annex (*l*).

** Annex (*e*).

†† *See* No. **299** (Calendar 13th Report, App., Part V.).

HOUSE OF LORDS MSS.

1692.

parties and report, they appointed a hearing about a week after, but determined nothing. Petitioner accordingly petitioned the Queen in Council to be heard, and the point in question, relating to the validity of the Inquisition, was looked upon as a matter of law, not properly determinable there. This point cannot be tried at common law, since the Warden of the Fleet has not traversed the Inquisition within the time limited for so doing. Prays to be heard by Counsel on the Bill. L. J., XV. 152.

(*b.*) 31 Dec. Petition of Thomas Bromhall, Infant, *per* Guardian [William Bromhall], to be heard against Leighton's Petition, and that Leighton may be ordered to enter into recognizance. L. J., XV. 168.

(*c.*) 20 Jan. 1692–3. Petition (to the Committee on the Bill) of Katherine Abnet, Widow, William Abnet and Richard Thorley, Gent., friends and near relations of Thomas Bromhall, Infant, for and on the behalf of the said Infant; and also of Thomas Richardson and Grace his wife, which said Grace is one of the coheirs of the said Thomas Bromhall, Infant, in case he shall happen to die without issue, for and on behalf of the said Infant and also of the said coheirs. Petitioners are informed that, under colour of some debts owing by Thos. Bromhall, late Warden of the Fleet, whose heir, the Infant, Thos. Bromhall, is under 7 years of age, there is a contrivance set on foot to sell the office, which was his inheritance. The Petitioners, the Abnets and Thorley, live about 100 miles from London, and knew nothing of the Bill till very lately. Pray to be heard against the Bill. *Signed* by Richardson only. [*See* Notes to first Paper 20 and 26 Jan. 1692–3.]

(*d.*) 23 Jan. 1692–3. Petition of Col. Baldwin Leighton. On their Majesties' Counsel offering some clauses to the Committee to be added to the Bill for securing their Majesties' right and title to the forfeiture of the Office of Warden of the Fleet, which it was agreed by Counsel on both sides, that Manlove, the present Warden, had forfeited, the Committee, taking Manlove to be but tenant for life, ordered Petitioner and Bromhall, who claims the equity of redemption of the office and estate in fee, to attend, with their counsel, Mr. Justice Nevill and Mr. Justice Gregory, who were desired to give their opinions to the Committee, in case a tenant for life forfeit, whether their Majesties or the person who has the inheritance shall have the forfeiture. These Judges, as Petitioner is informed, have given their opinions that the Reversioner shall have the forfeiture, which may be esteemed to be the assignee of Sir Jeremiah Whichcott. Their Majesties' just rights and prerogative, and the safety, ease and benefit of their subjects have great dependence upon a right state and decision of the point relating to the forfeiture, and will save their Lordships a great deal of labour, which will be spent in vain, in case the office forfeited be their Majesties'. Prays on behalf of their Majesties and himself to be heard by Counsel at the Bar to this point: Whether their Majesties or the Grantee Sir Jeremiah Whichcott, his heirs and assigns, shall have the said Office, which is forfeited upon conditions broken. *Endorsed* as read this day; ordered to be heard 4 Feb. next. 23 Jan.* Peti-

* This date should be 24 Jan. *See* entry in MS. Min. of 24 Jan., which adds that the Committee was revived that day, to proceed upon the Bill; Thos. Bromhall, Infant, to be heard.

tion dismissed, and order made yesterday reversed. Nothing to be entered. [The entry in MS. Min. of 23 Jan., corresponding with the first part of the endorsement, is struck through.]

(*e.*) 26 Jan. 1692–3. Draft Proviso, marked D., as follows:—"And for the avoiding of doubts and questions hereafter touching the right of their Majesties, their heirs and successors, to the benefit and advantage of forfeitures and seizures happening in the said office and premises, It is hereby declared and enacted that as often as any person or persons, being in the actual execution and possession of the said Office of Warden of the Fleet, shall forfeit his said office or his interest therein, that the benefit and advantage of such forfeiture and seizure thereof shall accrue to their Majesties, their heirs and successors." *Noted* as read this day and rejected. [*See* Notes to first Paper under date.]

(*f.*) 28 Jan. 1692–3. Petition of Col. Baldwin Leighton. Petitioner is advised that the Bill, though with a saving to their Majesties and Petitioner, cannot pass without great prejudice, as neither Bromhall nor Manlove have any estate but what they derive from the Crown upon the conditions expressed in the grant, viz., that Sir Jeremiah Whichcott, his heirs and assigns, shall make Caroon House the prison of the Fleet for ever, and shall observe all rules and orders settled for the good government of the Fleet, and there are conditions in law which go along with every office incident to the administration of justice. As these conditions are broken, their Majesties, as grantors and supreme administrators of justice, may take advantage thereof, and after a Commission issued out and before Inquisition found, may by force of the Statute 21 Jac. I., cap. 25., grant the said office upon any conditions broken; yet their Majesties did not grant the same until an Inquisition was taken by virtue of a Commission, which found Manlove guilty of extortion, which by the Statute of 3 Edw. I., cap. 30., is forfeiture of the fee to their Majesties. The Bill shows Manlove to be tenant for life, and until 1,000*l.* is paid and all accounts and reckonings between him and Bromhall, the uncle, be set straight and all covenants between them are performed, and it is believed that Bromhall has covenants to warrant the office and estate against him and his heirs, because Manlove in his answer upon oath in Chancery confesses he has the estate conveyed to him, his heirs and assigns, so that the Infant's name is only made use of to colour Manlove's forfeiture. The question put to the Judges by the Lords' Committee was with submission wrongly stated, viz. (If a tenant for life forfeits), whether their Majesties or the person who has the inheritance shall have the forfeiture? and the Judges' opinion that the Reversioner shall have it is of dangerous and ill consequence, if it be so that Bromhall's heir be accounted the reversioner, for then Bromhall may employ ill men and share with them in all their extortions and commit what abuses they please, because it is no forfeiture of office. If the Judges' opinion be wrong, and if it be in the power of the Lords Commissioners to stop their Majesties' grant of the office to Petitioner, as they have done since April 1690, and to make orders irregularly *ex parte* to quash an Inquisition, as the orders and affidavits annexed to the Petition show, when it was a judgment by default, by Manlove's not traversing the same, as directed by the Statute 1 Hen. VIII. cap. 10., and not to order a *Melius Inquirendum*, or give any directions to have Manlove punished, and not to put their Majesties' title to the forfeiture in

HOUSE OF LORDS MSS.

1692.

any legal way to be tried, and to vacate the Inquisition some weeks after Petitioner has addressed himself to the House, all these are abuses which the House alone can redress. Prays the House, as directed by the Committee, to be heard by Counsel on the point whether their Majesties or Sir Jeremiah Whichcott shall have the office on the conditions broken, and also to the irregularities of the Orders annexed, and that their Lordships will direct that their Majesties' title to the office shall be legally and judicially determined. [Read in the House on report and rejected this day. (Com. Book.) *See* Notes to first Paper.]

28 Jan. 1692–3. Orders and Affidavits referred to in preceding Petition, and appended thereto., viz. :—

(f^1.) Order of Lords Commissioners of the Great Seal, dated 26 Nov. 1690, made on an Order of Council of 6 (received 13) Nov., referring to them a complaint of Col. Leighton in relation to the passing a patent for him of the office of Warden of the Fleet. Their Lordships, assisted by Holt, C. J., Pollexfen, C. J., and Baron Nevill, unanimously declared that the Inquisition was void in law for the uncertainty and other imperfections therein contained, and ought therefore to be quashed, but respited the quashing until his Majesty's pleasure should be known.

(f^2.) Order of same, dated 28 Nov. 1690, upon motion made before them by Mr. Sloane, Counsel for Defendant, directing the Inquisition to be quashed, unless cause is shown to the contrary by Col. Leighton on the first day of the next term.

(f^3.) Order of same, dated 25 June 1691, upon motion made by Mr. Sloane, directing the Inquisition to be quashed, the Attorney-General declaring that he had acquainted his Majesty with the matter and had no direction to the contrary.

(f^4.) Affidavit of John Higgons, of the Inner Temple, Gent., Attorney and Solicitor of Col. Leighton, that he has failed to find, after searching the Registrar's minute books, any minutes or instructions made or given on 18 Nov. 1690, when all parties were heard by their Counsel, and that since that day, with the exception of Minutes on 26 and 28 Nov. 1690 and 25 June 1691 [*see* three preceding Papers], he has never heard of or had any notice given of any further debate or motions made in this Cause, and never heard of any further order till 13 December last, when the Clerk of the Petty Bag informed him that he was then served with an Order for quashing the Inquisition found against the Warden of the Fleet. *Sworn* 7 Jan. 1692 before S. Keck.

(f^5.) Affidavit of same, that he has failed to find, after searching the office for filing Affidavits in Chancery, any affidavit there filed showing that notice was given to the Clerk of the Petty Bag for Col. Leighton to show cause against quashing the Inquisition, according to the Order of 28 Nov. *Sworn* 5 Jan. 1692 before Ad. Ottley.

(f^6.) Affidavit of same that, after searching in the Petty Bag Office, on 11 Jan., he found the Inquisition filed there not vacated, and that he believes the same still remains good and effectual in law. *Sworn* 11 Jan. 1692 before S. Keck.

(g.) 28 Jan. 1692–3. Lords' Amendments to the Bill. [Made in Committee 20 and 26 Jan. (Com. Book), and reported this day. (L. J., XV. 205). The four Provisoes following are appended hereto.]

(*h.*) 28 Jan. Draft of Proviso ✠, enabling Thos. Bromhall, the Infant, and Martha Johnson, Executrix of Henry Johnson, and all other creditors and mortgagees to prosecute or defend any suit in law or equity. [Agreed to in Committee 26 Jan. (Com. Book), and reported this day. (L. J., XV. 208). It is *verbatim* Sect. 3 of the Act.]

(*i.*) 28 Jan. Draft of Proviso A, saving the rights of the Lord Great Chamberlain. [Agreed to in Committee 26 Jan. (Com. Book), and reported this day. (L. J., XV. 208). It is *verbatim* Sect. 4. of the Act.]

(*k.*) 28 Jan. Draft of Proviso B, saving the rights of the Keeper of their Majesties' Royal House at Westminster. [Agreed to in Committee 26 Jan. (Com. Book), and reported this day. (L. J., XV. 208). It is *verbatim* Sect. 5 of the Act.]

(*l.*) 28 Jan. Amended draft of Proviso C, saving the rights of Baldwin Leighton, Esq., and their Majesties, and (as amended by the Lords) of any bodies politic or corporate and persons whatsoever. [Agreed to in Committee 26 Jan. (Com. Book), and reported this day (L. J., XV. 208). As amended afterwards by the Commons, by adding William and Thomas Norwood, the Executors of Henry Norwood and Anthony Smith, Sir James Astrey, Knt., and all other creditors of Thos. Bromhall, deceased,* it forms *verbatim* Sect. 6 of the Act.]

(*m.*) Modern MS. copy of the Act.

630. Dec. 12. L. Villiers' Estate Act.—Draft of an Act for the clearing and removing some doubts which may arise in an Act of Parliament intituled An Act for the vesting several manors, lands and rents in the counties of Lincoln, Berks and Devon in trustees, to be sold for the buying other manors and lands to be settled for the same or the like uses as those to be sold are now settled. [Read 1ª this day; Royal Assent 20 Jan. 1692–3. No amendments in either House. L. J., XV. 143, 192. 4 W. & M. c. 5. in Long Calendar.]

631. Dec. 13. Banbury Claim of Peerage. — Petition of Charles [Knowles, claiming to be] Earl of Banbury, as follows:—

To the Right Hon^ble^ the Lords Spirituall and Temporall in Parliament assembled.

Sheweth, That your Petitioner, being of right by descent Earl of Banbury, and a Peer of this realm, though as yet he has not been summoned to Parliament, and being now committed to Newgate and indicted for the death of Phillip Lawson, your Petitioner humbly prays that he may be admitted to his trial by his Peers, as is usual in like cases, and if any question thereon shall arise, that he may be heard by his Counsel at the Bar of this most Hon^ble^ House, and that in the meantime he may be admitted to bail.

And your Petitioner shall ever pray, etc.—BANBURY.

L. J., XV. 146. [On 9 Jan. 1692–3,† Counsel being called in on this Petition, *Mr. Finch* (for Petitioner) states the case of the pedigree. In the Convention of 1660, Nicholas sat in this House. In the next Parliament

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* *See* C. J., X. 839.

† The MS. Min. entries of proceedings on this and the following days are given, except where here noted, in the Report of the Committee for Privileges on the Banbury Peerage of the proceedings heretofore had, touching the said title, which is printed *in extenso* in L. J., XLVI. 563–76 (13 April 1808), but with several inaccuracies, which are here corrected.

HOUSE OF LORDS MSS.

1692.

he was omitted to be summoned. States the proceedings in this House. No man ought to have his illegitimacy questioned after his death. *Sir Thomas Powys* (for Petitioner): We have the Patent whereby he was created. The only question is whether he was born while in wedlock, which I do not find questioned. If the children are born in wedlock, there is no question to be made in it. There was claim made in 1660, as appears by the Books. We can show the Patent. Nicholas sat in Parliament in the Convention after the King's return, 6 June 1661. They read. It was read out of the Journal, where he was named of two Committees. *The Attorney-General* is heard. The thing having been before this House several times, the King does not think fit to interpose in it, but to be passive and leave it to the judgment of this House, and when the House has determined, he will do what is proper. Counsel withdrew and the Speaker reported. *Moved* that the two Inquisitions be brought; that the Heralds attend and bring with them all papers and matters relating to this business, and that the Attorney-General attend, to be further heard if he shall think fit. *Ordered* accordingly, as in L. J., XV. 177. (MS. Min., 9 Jan.)

On 14 Jan. 1692–3 Counsel were called in. *John Ditchfield* sworn as to the truth of the Inquisitions formerly taken in this case. *Ordered* that the Records be sent for presently. Counsel and Heralds called in again. *The Heralds* were told they were sent to. They say they have but one thing, which is a certificate after the death of William, Earl of Banbury. The certificate is read by the Heralds at the Bar. 25 May 1632 he died and was interred June following in Bray Church. This Certificate was taken by Sampson Lennard, Blue-mantle. This was a private funeral. If it had been public, we had taken them. We have nothing more. *Mr. Finch:* We attend to hear what objections are made. We hope this is none. *Sir Thomas Powys:* These matters are of little credit. Sir William Dugdale has printed what is false,—that this Certificate was signed by the Countess. Now a man's life is in question, which makes things mighty different from all the claims in former time in this case. Asked what estate of William, Earl of Banbury the now person inherits? There is something they say—Bowling Green at Henly. This Certificate, the Herald says, has lain in the office publicly many years. Asked, what is become of the lands? The lands were settled and given away by William, Earl of Banbury. *The Solicitor-General* came. He is asked how he came hither? The papers, he says, were put into his hands by Mr. Attorney-General's servant [? secretary]. Counsel withdrew. *Moved* to call in Mr. Solicitor-General. The Order read of 13 Dec. concerning hearing the Attorney-General in this business. [In margin: 16 & 17 Q. Eliz. Onslow, L. Bacon.] A debate arose concerning taking care that for the future the Attorney-General should be always an Assistant to this House. *Moved* that it be referred to the Committee for Privileges. *Ordered* that an Address be prepared by the Committee for Privileges for the Attorney-General to attend as an Assistant.* Counsel called in again. *The Attorney-General:* Upon his Majesty's hearing of

* L. J., XV. 183. In Committee for Privileges on 18 Jan., E. Warrington in the Chair, the Clerks were ordered to search for precedents. *Ordered* that Mr. Pingrey, the Clerk of the Petty Bag, bring on the 21st the Pawns in the Petty Bag office wherein the Writs are entered, whereby the Master of the Rolls or the Attorney-General are summoned as Assistants to the House of Peers.—On 27 Jan., E. Stamford in the Chair, the following Precedents are read:—27 Q. Eliz. Dec. 9. Attorney present. 29 Eliz. March 15. *Ordered* that the Clerk of the Petty Bag attend on 1 Feb. with the Pawns wherein are Writs for the Masters of the Rolls and Attorney-Generals to attend. *Ordered* that the Clerks make copies of what precedents they find in this case. (Priv. Book.) Nothing further recorded.

this further, his Majesty has given me order to object what I can. The King seems surprised that one should come to ask to be tried as a Peer before he asks the King for a writ of summons. It is sixty years since the E. Banbury's death, and since [then] no Earl of Banbury has been owned by the Crown. It is hoped all the circumstances of the person will be very narrowly looked into. You make him incapacity of being a judge into the legislature, nay, I know not but you give him an estate too. The E. Banbury died; how can the Petitioner entitle himself to be Earl of Banbury? It will not be pretended the Earl knew he had a son; nay, that he ever knew his wife had a son. There was an Inquisition taken in Oxfordshire, the proper county. Dugdale says she, the Duchess (*sic*), subscribed a Certificate her husband died without issue. This second son was not heard of in many years. All that is pretended is that these children were born in wedlock. Case of Hospell & Collins cited, tried in the Common Pleas. He is no child; during the coverture not heard of; not that the mother had any child. The question is entirely whether Nicholas was legitimate or not, as if he was living; his death would not alter the case. He had no part of the estate of L. Banbury but Vaus [Vaux's]. I shall be told there was another Inquisition; but this was an artifice; the first Inquisition was never quashed. As to Nicholas' sitting in the Convention will be little in this case, the Committee was of one opinion and the House was of another opinion by bringing in a Bill. It will be very strange to admit him a Peer after these proceedings. *Mr. Finch* heard in reply to the Attorney-General. The matter desired is very great. This question does not decide the title to the lands. It is strange, says Mr. Attorney, at this time to set this matter on foot. But the occasion is great; he lies under the misfortune of being thought to have killed a man. *Sir Thomas Powys* heard for the claimant. Counsel withdrew, and the House went into debate of the case. *Question* put: Whether the House shall now proceed in the debate? Resolved in the *Negative*. Contents 31 (including 8 Proxies); Not-Contents 41 (including 3 Proxies). Tellers: E. Manchester and E. Feversham. Debate adjourned till the 17th, the first business.* (MS. Min.)

On 17 Jan. 1692–3, the Order being read for resuming the debate, the person that keeps the Records in the Rolls Chapel was called in, and read the original Inquisitions taken formerly in relation to this business. Debate resumed. *Mr. Grimes*, the Officer of the Rolls, was called in and asked if he had the Commission for taking the Inquisitions? He looked and found none. After debate, *Moved* that a vote be made that the Petitioner is the son of a supposititious child to the E. Banbury. After further debate, *Moved* that all the Judges be heard in this case [to] such questions as shall be asked relating to the points in law in this case. After debate, *Question* put whether all the Judges shall be heard in this case? Resolved in the *Negative*. Contents 29; Not-Contents 38. Tellers: E. Bridgewater and L. Godolphin. Leave to protest. *Question* propounded: Whether the Petitioner has any right to the title of Earl of Banbury? *Previous Question* put: Whether this Question shall be now put? Resolved in the *Affirmative*. Contents 40 (including 7 Proxies); Not-Contents 29 (including 2 Proxies). Tellers: E. Bridgewater and L. Godolphin. *Main Question* put and resolved in the *Negative*. *Ordered* that the Petition be dismissed. (MS. Min.; L. J., XV. 187.)

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* A cancelled entry here adds: "A debate arose concerning a Lord's mistake in voting and not going out."

HOUSE OF LORDS MSS. 1692.

The MS. Minutes of 2 and 5 Dec. 1693 contain the following further entries, which do not appear in the Journal of those dates, or of 13 April 1808, and have hitherto been unnoticed, viz. :—

2 Dec. 1693. House *moved* that a Lord may explain what he meant by saying the Judges had misbehaved themselves to this House. *E. Rochester* says it relates to the Justices of the King's Bench, concerning a gentleman that pretended to be Earl of Banbury. He petitioned to prove his title here, and the House, after hearing, declared and ordered he had no title to that claim, and this gentleman is not tried to this day. *Moved* that the Justices of the King's Bench give an account whether the person that claimed the title of Earl of Banbury be tried, and, if not, their reason why. That they deliver a State of the case. To give an account how the state of the person's claim to be E. of Banbury stands. *Ordered* that all the Judges of their Majesties' Court of King's Bench do attend on Tuesday next.

5 Dec. 1693.* House *moved* to hear the Judges as to what was done in the pretended Lord Banbury's case. *Holt, C. J.* heard: Ch. Knowles was in November accused of murder. He moved for a *certiorari*. We granted a *certiorari* in general. We arraigned him at the Bar by [the name of] Charles Knowles. We expected an answer. He came with a special Plea and a Patent, and derives himself from that Patent. We must receive any Plea. The *Attorney-General* replied: The proceedings [are] before this House. He has demurred to this, and we can go no further.

The matter next came before the House on 22 March 1693–4, when the House was *moved* that an account should be given of the business of the person claiming the title of E. Banbury. *Moved* that the Attorney-General give the House an account of it. The *Attorney-General* was heard: This matter stands upon a demurrer in the King's Bench. The matter ought to have been forwarded by him, and so the Attorney-General was to take it up and not (*sic*) it is appointed Hilary term. At the desire of Mr. Knowles the Court have granted another argument to be next term. *Moved* that the Attorney-General give this House an account in writing of the proceedings in this case in the Courts below. *Ordered* accordingly. (MS. Min.; L. J., XV. 401.)—On 11 April 1694 the *Attorney-General* delivered in the account (L. J., XV. 413–14 *In extenso*), after reading which, the House ordered the Judges of the King's Bench to attend on the 14th inst. (MS. Min.). —On 13 April 1694 they were ordered to attend, instead, on the 16th (MS. Min.; L. J., XV. 415).—On 16 April 1694,† *Holt, C. J.* was heard as to the proceedings in the King's Bench and stated the case (MS. Min.; no entry in L. J.); after which the House adjourned.

On 27 Nov. 1694,† after debate, *Question* put: Whether the Attorney-General shall give this House an account what proceedings there have been in the Court of King's Bench since the 11th of April 1694, in relation to the person who claims the title of Earl of Banbury? Resolved in the *Affirmative*. *Ordered* accordingly, as in L. J., XV. 436.—On 4 Dec. 1694 the *Attorney-General* gave the House an account that the cause was argued by one counsel on either side in Easter term. The Court gave their opinion in Trinity term last. He reads the Rule of Court for the Judgment and the Bail, and the Copy of the Record of the Bail. The proceedings in the Journal of 17 Jan. 1692 were read out of the Journal. *Moved*, that the Record be brought into the House. *Moved* to adjourn. After debate, *Question* put: Whether the House

* The whole of this entry is struck through.

† The proceedings of date are not included in the Report of 13 April 1808.

shall be now adjourned. Resolved in the *Negative*. *Ordered* that the proper officer in the Court of King's Bench bring before the House to-morrow the Record of the Indictment of Charles Knowles, whe claimed the title of E. Banbury, and the proceedings of that Court thereupon. Debate adjourned till to-morrow. (MS. Min.; L. J., XV. 438).—On 5 Dec. 1694 the officer of the King's Bench was called in. *Mr. Harcourt* at the table delivered the Record. *Moved* to have the Record read. A debate arose whether the Record shall be now read. Said debate adjourned to 12 Dec. (MS. Min.; L. J., XV. 439). On the 12th the debate was further adjourned to the 24th Dec. (L. J., XV. 443), and again on 22 Dec. to 2 Jan. 1694–5 (*ib.* 451), on which last-named day, however, the House did not sit, having adjourned on 30 Dec. 1694 to 3 Jan. 1694–5. No further proceedings.].

Annexed:—

(*a.*) 4 Dec. 1694. Copy of L. Banbury's Bail, viz.:—

"Inter Recorda Balliorum de Termino Sanctæ Trinitatis Anno VI°. W. & M.

Midd. Carolus, Comes Banbury traditur in Ballium pro comparentiâ suâ hic in Curiâ in crastino et sic de die in diem quousque, &c., et non decedere sine licenciâ Curiæ.

No. iiij.

Erasmo Norwich, de Brampton in Com. Northton., Bart.
Galfrido Palmer, de Carleton in Com. Leic. Arm.
Edwardo Hales, de civitate Lincoln, Arm.
Thomæ Beverley de Interiore Templo, London, Arm.

Quilibet plegium corpus pro corpore.

Captum in Curiâ die Veneris prope Quindenam Sanctæ Trinitatis. Exam^um^ per Wintour.

Endorsed as brought in this day.*

(a^1.) 4 Dec. 1694. Rule of Court for Judgment in "Attorney-General *v.* Knolles," viz.:—

Die Mercurii prope Quindenam Sanctæ Trinitatis Anno Sexto Will. & Marie Regis et Reginæ.

Midd. Rex et Regina *v.* Carolum Knolles, Arm. } Super maturâ deliberatione Curiæ hic habitâ, cons[ideratum] est per Curiam prædictam quod Indictamentum versus Def. pro feloniâ et murdro, per nomen Caroli Knolles, Arm., cassetur. Ordinatum est quod priorum ballium exoneretur et tradatur in ballium de novo per nomen Caroli, Comitis Banbury pro comparentiâ suâ hic in Curiâ in crastino et sic de die in diem quousque, &c. Per Curiam.

[Appended to preceding.]

632. Dec. 13. Sir R. Smyth's Estate Act.—Draft of an Act for the sale of lands by Sir Robert Smyth, and settling other lands of a greater value to the same uses in lieu thereof. [Read 1^a^ this day; Royal Assent 14 March 1692–3. L. J., XV. 145, 289. 4–5 W. & M. c. 41. in Long Calendar. No amendment in the Lords. The Commons' amendments, which were agreed to by the Lords (*ib.*, 279), are given in C. J., X. 841.]

Annexed:—

(*a.*) 2 Jan. 1692–3. Consent of Sir Robert Smyth to the Bill. *Dated* 26 Dec. 1692. *Attested* by Jo. Burrard and Will. Vessey. [Produced in Committee† this day. Com. Book.]

* Neither this nor the next document is included in the Report of 13 April 1808.

† The MS. Min. of 21 Dec. 1692 have the following: "Committee revived, to sit tomorrow"; again, on 31 Dec., "Committee revived, to sit on Monday next"; and again, on 4 Jan., "Committee revived for tomorrow, 9 o'clock."

HOUSE OF LORDS MSS. 1692.

(*b.*) 4 Jan. 1692–3. Consent of Jeffrey Jeffreys, Esq., to the Bill. *Dated* 4 Jan. 1692–3. [Produced in Committee this day by Mr. Lewis Lloyd. Com. Book.]

633. Dec. 14. Powell's Estate Act.—Draft of an Act for the settling of the Manor of Kingsnoth, for the enabling Barnham Powell, Esq, to make provision for his younger children. [Read 1ª this day; Royal Assent 20 Jan. 1692–3. L. J., XV. 147, 193. 4 W. & M. c. 13. in Long Calendar. No amendments in either House. Com. Book, 19 Dec.]

634. Dec 16. Sir W. Mannock's Estate Act.—Amended Draft of an Act for the enabling Sir William Mannock, Baronet, to charge his estate for the raising his younger children portions. The Lords' amendments are to insert the names of the trustees and the words "upon trust." No amendments in the Commons. [Read 1ª this day; Royal Assent 20 Jan. 1692–3 L. J., XV. 150, 193. 4 W. & M. c. 12. in Long Calendar.]

Annexed:—

(*a.*) 30 Dec. Minutes of proceedings on the Bill this day. [These proceedings are not entered in Com. Book of date. In Committee on 23 Dec., E. Manchester in the Chair,* a scruple arising concerning the value of the timber upon the estate, whether it was worth 5,000*l.*, the Committee adjourned the further consideration of the Bill till the 30th, when Sir W. Mannock should have leave to show that he had timber on his estate, by the cutting whereof he could commit above 5,000*l.* waste, and should then offer a Clause, to be added to the Bill, for settling in trustees for the benefit of the children the 5,000*l.* to be raised by the Bill. (Com. Book, 23 Dec.)]

(*b.*) 30 Dec. Paper marked A, giving the names of the trustees. [Reported this day. L. J., XV. 166.]

(*c.*) 30 Dec. Affidavit of Sir W. Mannock that he has power under his marriage settlement to commit waste, by cutting timber, &c., to the value of 5,000*l.*, should he make use of it to raise moneys thereby for his younger children. *Sworn* 29 Dec. before Lacon Wm. Childe. Mag. Canc. [Probably produced in Committee this day.]

635. Dec. 17. E. Aylesbury's Privilege (R. Noyes).†—Case of Mr. Robert Noyes, servant to E. Aylesbury. John Gosse, of Sarum, Wm. Gesford, of Worden, John Marshman and Charles Wills, of Neitherhaven, Bailiffs of the Sheriff of Wilts, by virtue of an execution against Noyes at the suit of Vincent Head, of Stowell, Wilts, yeoman, and Richard Watts, *alias* Waterman, junior, of Patney, Wilts, yeoman, on 14 June last entered into the Earl's house at Tottenham Park and seized Noyes' and the Earl's goods. The bailiffs, being informed of the breach of privilege, sent to Plaintiff's attorney, Mr. Richard Hayes, of Amesbury, who came with the Plaintiffs, Head and Watts, to the Earl's house and there promised to defend the bailiffs against the Earl as far as 500*l.* would go, which can be proved by Noyes and Humphrey Norborne, of Chute, Gent. *Noted* at foot: Humphrey Norborne and Robert Noyes sworn. L. J., XV. 150.

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* The MS. Min. of 21 Dec. have the following: "Committee revived; to sit tomorrow."

† Entered in L. J. as "Noyce."

Annexed :—

(*a.*) 31 Dec. Petition of Richard Watts, *alias* Waterman, Vincent Head and Richard Hayes, now in the custody of the Serjeant-at-Arms. Petitioners offended in ignorance, and pray to be discharged. L. J., XV. 168.

636. Dec. 17. Hurt *v.* Attorney-General of the Duchy of Lancaster, at the relation of Eyre.—Petition and Appeal of Nicholas Hurt, Esq., and Elizabeth, his wife, sister and heir of John Low, Esq., deceased, who was son and heir of John Low, who was son and heir of Edward Low; and of George Nevill, Esq., son and heir of George Nevill, Esq., deceased, and grandson and heir of Richard Nevill, Esq., deceased. This Appeal is identical, except in adding Nevill as an Appellant, with the one presented on 23 Nov. 1692 (No. **606**). Thomas Eyre is here stated to have been retained as Counsel for John Low, the father, touching the Milkey,—a statement which appears to have been erased in the former Appeal. L. J., XV. 151. [The appeal was heard and dismissed on 12 Jan. 1692–3. *The Solicitor-General* and *Sir Thomas Powys* were heard for Appellant. *Mr. Ward* (for Respondent): Must the King neither have his rent nor his land? *Mr. Dodd* (for Respondent) was also heard. (MS. Min.; L. J., XV. 180.)]

Annexed :—

(*a.*) 21 Dec. Petition of Thomas Eyre, Esq. Their Lordships, on 14 Dec., dismissed the former Appeal for want of a proper Appellant, a mistake which has cost Respondent 50*l.* Prays that the Appellant Hurt and his wife may be ordered to reimburse him. L. J., XV. 160.

(*b.*) 29 Dec. Answer of Edward Northey, Esq., their Majesties' Attorney of their Duchy of Lancaster. Identical with his answer to the former Appeal (No. **606** (*a.*)). *Endorsed* as brought in this day. *Countersigned* Godfr. Thacker.

(*c.*) 29 Dec. Answer of Thomas Eyre, Esq. Identical, for the most part, with his Answer to the former Appeal (No. **606** (*b.*)). Adds that the Appellant Nevill produced no other evidence below to prove the King's covenant but his grant, which Respondent has reason to believe he now fears to produce. Neither Nevill nor his ancestors ever paid a penny rent for the premises for above 43 years. *Endorsed* as brought in this day.

(*d.*) 7 Jan. 1692–3. Petition of Appellants, that the hearing, appointed for the 12th inst., may be put off for a fortnight, their Attorney, Mr. Bagshaw, being in Derbyshire. *Endorsed* as read this day, nothing done on it. No entry in L. J. or MS. Min.

637. Dec. 20. Hastings *v.* Lady Churchill.—Petition of Caroletta Hastings, the widow and executrix of the late Col. Anthony Hastings, deceased. Petitioner's late father, Sir John Churchill, on his marriage with Susannah, daughter of Edmond Prideaux, Esq., settled on her the manor of Churchill, co. Somerset, for a jointure after his death, with remainders to issue male, and created a term of years in trust to raise portions for daughters. No provision being made in that deed for their daughters, if Sir John married again after her death, leaving sons and daughters, Sir John executed another one, covenanting before 30. Nov. 1655 to purchase and settle other lands in Somersetshire upon the like trusts, or, failing his doing so, to pay certain sums for such daughters' maintenance, and Sir John accordingly purchased the manor of Backwell

HOUSE OF LORDS MSS.

1692.

and other lands in Somersetshire. He died in 1685 without issue male, all his daughters being married in his lifetime except Petitioner, to whom he devised the manor of Backwell, after payment of the incumbrances thereon. After his death, Petitioner having married Col. Hastings, Dame Susannah brought a Bill in Chancery to charge the manor of Backwell and Sir John's real and personal estate with 100*l.* a year during her life, besides her jointure. Petitioner and her husband insisted that the covenant was only given to secure a maintenance for daughters if Dame Susannah had died in Sir John's lifetime, and was never intended to increase the jointure. The Lords Commissioners, however, on 16 Dec. 2 W. & M., decreed to Dame Susannah the 100*l.* a year since her husband's death. Col. Hastings, who commanded the *Sandwich*, was killed in the summer's engagement with the French fleet, and has left Petitioner his executrix. Prays that the decree may be reversed and Respondent ordered to answer. *Signed* by Appellant; *Countersigned* by Ge. Paunceforte. L. J., XV. 159. [The Cause was heard and the Decree reversed on 7 Feb. *Mr. Finch* and the *Solicitor-General* were heard for Appellant, and *Sir Ambrose Phillipps* and *Mr. Vernon* for Respondent. (MS. Min.; L. J., XV. 219.)]

Annexed:—

(*a.*) 11 Jan. 1692–3. Answer of Dame Susanna Churchill, Widow and relict of Sir John Churchill. Sir John, who received 2,500*l.* with his wife as her marriage portion, covenanted to settle lands worth 100*l.* a year on her in addition to her jointure. Respondent and her trustees, never doubting that he would perform this covenant, and expecting that he would make still further provision for his widow, being a man very eminent and a great gainer in his profession, never pressed him for a settlement in his lifetime. Prays that the decree may stand. *Signed* Susan Churchill. *Endorsed* as brought in this day.

638. Dec. 22. Sir J. Wentworth's Estate Act.—Amended draft of an Act to enable Sir John Wentworth, Bart., an Infant under the age of 21 years, to make a jointure out, and settlement, of his manors and lands in the Counties of York and Westmoreland. [Read 1ª this day; Royal Assent 20 Jan. 1692–3. L. J., XV. 161, 192. 4 W. & M. c. 6. in Long Calendar. The Lords' Amendments, made in Committee 30 Dec.,* after an adjournment eod. die. for the attendance of Sir J. Wentworth's brothers, are purely verbal (Com. Book), as also are the Commons' Amendments, which were agreed to by the Lords. (C. J., X. 771.)]

639. Dec. 22. Ruddle *v.* Cass.—Petition and Appeal of Robert Ruddle. Appellant, a merchant living in London, being requested to purchase some houses at Port Royal, Jamaica, for his correspondent there, Jeremiah, brother of Sir James Tillie, Kt., was applied to in 1690 by Respondent, who claimed them as purchaser for 400*l.* from Elizabeth, executrix and devisee of Rainsford Waterhouse, their owner. Appellant, on Tillie's behalf, agreed to pay Respondent 800*l.* for them. On the deed being prepared, Respondent's title appeared defective, but he prevailed on Appellant's scrivener to advance him 100*l.* upon it. Search being made at Port Royal, the conveyances to Rainsford were found not to have been enrolled, and by the law there defective, and Appellant was directed not to proceed with the purchase. Respondent thereupon claimed the purchase money and, without Appellant's knowledge, sealed a convey-

* "Committee on Sir J. Wentworth's Bill to meet tomorrow at 9 o'clock." (MS. Min., 29 Nov.)

ance to Tillie. Failing to recover the 700*l.*, residue of the purchase money, at law, he brought a Bill in Chancery against Appellant and the two Tillies for the sum. Sir James having demurred, and Jeremiah being dead, the cause was heard against Appellant alone on 12 Dec. last, when the Court decreed that the agreement should be performed and that Appellant, who acted only as Jeremiah's agent, should pay the 700*l.* with interest, the conveyance made by Respondent to Jeremiah to stand, if Respondent's title were found good and Jeremiah living when it was made, otherwise the conveyance to be made by Respondent to Appellant. Prays that this Decree may be reversed. *Signed* by Appellant; *Countersigned* by Jo. Tremayne and Wi. Williams. L. J., XV. 161. [The Cause was heard on 25 Jan. 1692–3. *Sir W. Williams* (for Appellant) opened the case. *Mr. Ward* (for Appellant): We have lost both our title and our houses to now. *Sir Ambrose Phillipps* (for Respondent) was heard. *Mr. Finch* (for Respondent): At the hearing of the cause a good title did appear. In Jamaica whosoever has possession of an estate, has a good title to it. It appeared at the hearing the full title, and then we ought to be decreed the money. There is no proof; but the title good there ought to be absolute. They read a receipt for the 100*l.* Counsel withdrew and the Speaker reported. After debate, Appeal dismissed and Decree affirmed. (MS. Min.; L. J., XV. 199.)]

Annexed:—

(*a.*) 2 Jan. 1692–3. Answer of John Cass, Esq. Respondent sold the houses as he bought them, and was only to secure against Mrs. Waterhouse, or procure her to join, in case her conveyance to him was not recorded in Jamaica. Appellant accepted a conveyance to the use of Jeremiah Tillie. Appellant has not proved the title defective, and has Tillie's purchase money in his hands. Prays that the Decree may stand. *Signed* by Respondent; *Countersigned* by R. Thornhill. *Endorsed* as brought in this day.

640. Dec. 22. Boevey *v.* Dame Anne Smyth and others.—Petition and Appeal of James Boevey. Appellant's mother Joanna, wife of Andrew Boevey and afterwards of John Abeel, having purchased in 1634 some lands and houses in Upper or Little Chelsea of Thomas Wood, the latter conveyed them to William Boevey, Thos. Waterhouse, Simon Dring and Henry Faldoe, in trust to convey them to such persons and uses as she should appoint, and, failing such appointment, to the use of Appellant, her son, and her four daughters, Joanna Clarke, widow, Mary Boevey, Elizabeth Le Mott, Widow (afterwards Elizabeth Bex), and Anne, wife of David Bonnell, and their respective heirs, in equal shares. By her will she gave the premises to her four daughters, and in case of any of them dying, her share was to go to her sister's children. After her death, the trustees, in breach of their trust, conveyed them to the use of the four daughters only. These, after levying fines among themselves, sold the premises to the trustee William Boevey, who devised them, with a personal estate of 30,000*l.*, to Respondent Anne, his widow, afterwards Dame Anne Smyth, for life, and after her death to their son John and heirs. The four daughters, who had only a life-estate, being dead, Appellant, as Andrew's son and heir, claimed the trust of the inheritance, and in 1676 brought a Bill in Chancery against Dame Anne Smyth and William Boevey's son John. On 17 Oct. 34 Car. II., the L. Chancellor Nottingham declared that the fines being levied to parties who claimed by Joanna Abeel's will and who knew of the trust, could not bar the trust, and that William

HOUSE OF LORDS MSS.
1692.

Boevey's conveyance of the inheritance to the daughters was a breach of trust. He confirmed this decree on a rehearing on 14 Nov., save as to one point, which he reserved, but died before determining; but on 5 March 35 Car. II. the L. Keeper North, on a rehearing, dismissed the Bill. *Since this dismission, part of the estate is come to Henry, Lord Capell and Richard Garth, trustees for Elizabeth, John Boevey's wife, and part to Thos. Lownes and Elizabeth, his wife, for little or no consideration, who had notice of Appellant's claim.** Prays that the dismission may be reversed. *Signed* by Appellant. *Countersigned* by Will^m^ Watts and W. Thomson. L. J., XV. 161. [The Cause was first heard on 4 March 1692–3, *Mr. Finch* and *Sir Thomas Powys* being heard for Appellant, and *The Solicitor General* and *Mr. Ward* for Respondents. After debate, dismission reversed. (MS. Min.; L. J., XV. 275).—On 6 March, the House being moved that the Judgment may be respited, "for that Mr. Lownes and his wife may be included therein, who were no parties in the Appeal," ordered that Lownes and his wife and Mr. Boevey should be heard by one Counsel of a side. (MS. Min.; L. J., XV. 277).—On 7 March Counsel were called in. *Mr. Ward* (for Lownes): This Bex is the wife of Lownes and no party to the decree. *Mr. Finch:* It is true there is a child living, but, however, that does not make it an estate tail, and will not affect Mr. Boevey. Wild's case is not in this matter. *Mr. Ward* heard in reply. *Mr. Finch:* We cannot execute this Decree to the prejudice of Mrs. Lownes. Counsel withdrew. *Ordered* that the Judgment be amended by adding the words ["but the same is to be without prejudice unto the other Respondents Lownes and his wife's right, *by virtue of the Will of Joanna Beale,*† to the premises in question, or any part thereof; who are at liberty at any time to defend the same, as they shall be advised"]. (MS. Min.; L. J., XV. 278.)—On 10 March, the House (on motion) ordered one Counsel on each side to be heard whether the words ("by virtue of the Will of Joanna Beale") should stand. (MS. Min.; L. J., XV. 283.)—On 11 March, Counsel were called in. *Mr. Ward* (for Petitioner, against the words): For this reason, Lownes and his wife were no party to the Decree below. *Mr. Finch* heard for the words to stand. Counsel withdrew. *Ordered* that all the words in the end of the Order after the word ("reversed") be left out. (MS. Min.; L. J., XV. 285.)]

Annexed:—

(*a.*) 11 Jan. 1692–3. Joint and Several Answer of Dame Anne Smyth, widow, and John Boevey, Gent. Appellant released his title to the premises and the personal estate of his mother, in submission to an award of arbitrators. Respondent John, on his marriage, transferred his interest to Sir Henry Capell, K.B., and Richard Garth, in trust for his wife's jointure. Elizabeth Bex, suggesting that she had mortgaged her two-thirds in 1658 to her sister Joanna, and that the latter had sold them to William Boevey, who devised them to Respondents, brought a Bill in 1683 against Respondents, disputing Joanna's right to sell, as being merely a mortgagee, and the Court decreed the redemption to her on payment of 764*l.* She dying before the money was paid, her daughter Elizabeth Lownes brought a new Bill against Respondents and John Boevey's wife Elizabeth and her two trustees, and L. Jeffreys on 23 Dec. 1687 decreed that all the parties should join in a fine and conveyance of the premises,

* The part in italics is noted, "Emendat. per ord. 26 Jan. 1692–3." *See* L. J., XV. 202, and Annex (*b.*) below.

† These words in italics are in L. J., XV. 278, but not in MS. Min.

limiting the use of so much as was in the possession of Dame Anne Smyth to her and her son John Boevey for their lives, then to Sir H. Capell and Garth in trust for John's wife Elizabeth. A fine was levied accordingly, so that Respondents now claim but part of the premises, worth 50*l.* a year. *Signed* by Respondents. *Endorsed* as brought in this day.

(*b.*) 26 Jan. 1692–3. Petition of Appellant. It appears by the Answer, that since the dismission, part of the estate in question is come to the now Right Hon. Henry, Lord Capell, and Richard Garth, Esq., as trustees for the wife of the Respondent John Boevey, and other part to Thomas Lownes and Elizabeth his wife, the daughter and executrix of Elizabeth Bex, deceased, the Petitioner's sister, and that one Jacob Lucy and Thomas Crispe are parties to the Deed. Prays that Lord Capell, Garth, Lownes and his wife, Elizabeth, wife of Respondent John Boevey, and Lucy and Crispe may be added as Respondents. L. J., XV. 202.

(*c.*) 6 Feb. 1692–3. Answer of Thomas Lownes and Elizabeth, his wife. The trustees conveyed to Joanna's four daughters in pursuance of the will. The matters in difference between Appellant and his three sisters (Mary Boevey being then dead) were referred in 1653 to three arbitrators, viz., Derick Host, William Crosse and George Morgan, of London, Merchants, on whose award, confirmed by the Court of Chancery, all the parties executed mutual releases to each other. Respondent Elizabeth, on her mother's death, became entitled to the redemption of her two thirds, and L. Jeffreys decreed the premises other than those in the possession of Dame Anne Smyth to the use of Thomas Lownes, who on executing the fine and conveyance was to pay Dame Anne Smyth 250*l.* and give a mortgage of the premises limited to him to Lord Capell and Mr. Garth for security of 500*l.* and interest at 5 per cent. Lownes complied with this decree, and has been put to the expense of about 700*l.* in connection with his share of the premises. Pray that the decree may not be reversed. *Signed* by Respondents. *Endorsed* as brought in this day.

(*d.*) 9 Feb. 1692–3. Answer of the Right Hon. Henry, Lord Capell and Richard Garth, Esq. John Boevey, in consideration of his wife's parting with 2,000*l.*, settled upon her marriage, towards payment of his debts, conveyed the premises to Respondents in trust to raise 1,100*l.* by sale for his wife's separate use, the rest to the use of himself. Lownes and his wife having brought their Bill for the equity of redemption of part of the premises, L. Jeffreys decreed as stated above, and a Fine was levied, the uses whereof were declared by all the parties, and Lownes demised the premises, so limited in use to him, to Respondents. Respondents are only concerned as trustees, and were no parties to the decree complained of. Pray that the Decree may not be reversed. *Signed* by Respondents. *Noted* at the foot, "The uses of the Fine abovementioned are by Deed limited to the effect in the Answer set forth. R. Freeman, 8 Feb. 92." *Endorsed* as brought in this day.

(*e.*) 15 Feb. 1692–3. Petition of Appellant. The Respondent Elizabeth Boevey has been served with their Lordships' order to answer, as appears by the Affidavit annexed to the Petition. Prays that she may be ordered to put in her answer forthwith, without which Petitioner is advised that he cannot regularly

HOUSE OF LORDS MSS.

1692.

proceed to the hearing, part of the estate in question being settled in trust for her, and she to have the separate benefit thereof. L. J., XV. 230.

(*f.*) Affidavit of Wm. Punshon, referred to in preceding. *Sworn* 14 Feb. 1692 before Jo. Francklin.

(*g.*) 16 Feb. 1692–3. Answer of Elizabeth Boevey, the wife of John Boevey, Esq. Almost identical with (*d.*) above. *Signed* by Respondent. *Endorsed* as brought in this day.

641. Dec. 22. Superstitious Trusts and Uses Bill. — Draft, marked in margin for amendment,* of an Act for the vesting of superstitious trusts and uses in the Crown. For the more effectual [extirpation] *suppression* of all superstitious trusts and uses, which are yet too much continued and kept up by secret gifts, grants and provisions to and for such trusts and uses, and for the more express and plain declaration of the law touching the same; Be it [declared and] enacted by [their] *the King and Queen's* most excellent Majesties, &c., That all and every superstitious use and uses, trust and trusts, intents and purposes, of what name, nature or quality soever they are, for the maintenance or support of any of the superstitious rites, ceremonies and errors in the Church of Rome, that have been devised, covenanted, made, declared or raised before the passing of this Act, or that at any time hereafter shall be devised, covenanted, made, declared or raised, shall be and are hereby declared, enacted and adjudged to be forfeited to their Majesties, their heirs and successors, Kings and Queens of England. And it is further enacted and declared, That averments and proofs by parol shall and may be admitted to be made or given of any such use and uses, trust and trusts, intents and purposes against and out of any conveyance or assurance whatsoever, be the same by matter of record, deeds or deed or last will and testament, or otherwise howsoever, which at any time have been made, passed or suffered, or which at any time hereafter shall be had, made, passed or suffered, and although there be no writing specifying or declaring such use or uses, trust or trusts, any law, statute, usage or custom to the contrary notwithstanding. [Read 1ª this day; to be read 2ª and the two Chief Justices to attend. (L. J., XV. 162).—On 4 Jan. in C. W. H. (Bishop of Salisbury in the Chair) the above amendments were made. *Holt, C. J.*, being heard as to the word ("declared"), said: "It is a new law, and therefore it may be left out." On Report, stating that the Committee had found some difficulties in the Bill, and were of opinion that it should be given to the Judges to consider of it, the House ordered accordingly, the Judges to consider of what amendments were fit to be made, and to bring the same to the House on the 7th (MS. Min.; L. J., XV. 173).—On 7 Jan. the C. W. H. was put off till the 11th (L. J., XV. 175), on which day it was again put off till the 13th (*ib.*, 179). No further proceedings. See also under date 7 Nov. 1693.]

642. Dec. 22. D. Norfolk's Divorce Bill.—Draft of an Act to dissolve the marriage of Henry, Duke of Norfolk, Earl Marshal of England, with the Lady Mary Mordaunt, and to enable the said Duke to marry again. Identical with the Bill of 12 Jan. 1691–2 [No. **524**] except in the Preamble, where this Bill omits the following words in square brackets, and adds those in italics, viz.:—

* The amendments are supplied by the MS. Min. of 4 Jan., the omissions being shown by square brackets, and the additions by italics.

. . . "hath *upon a trial of law* convicted John Germaine to have had an adulterous converse with the said Lady Mary, wife of the said Duke, and hath* made full proof" . . .

. . . "Nor can [have any probable expectation of posterity] *hope for any other than spurious issue* to succeed him" . . .

[Offered to the House this day; *Ordered*, to consider on the 29th whether it ought to be received (L. J., XV. 162).—On 29 Dec., the order being read, House *moved* that the Question shall be put: Whether the Bill shall be rejected? *Moved*, to hear Counsel for and against the Bill. *Ordered*, That a copy of the Record of the Court of King's Bench, wherein Judgment is entered for the Duke against Germaine, be brought into the House on the 31st, and that L. C. Justice Holt then attend, and Counsel also to be ready to be heard, if the House shall think fit. (MS. Min.; L. J., XV. 165.)—30 Dec. Consideration, &c., put off till 2 Jan. (MS. Min.; L. J., XV. 167).—On 2 Jan. the Record was brought in and read. *Moved*, that L. C. Justice Holt be heard. *Holt, C. J.:* Desires time, if he must give an account of the whole evidence. *Moved*, to ask him whether the Duchess was concerned in the Action, and whether adultery was proved, and, if so, whether the Duchess was a party? *Holt, C. J.:* The Duchess was no Party, neither Plaintiff nor Defendant. It was between the Duke and Germaine. *Moved*, to ask him whether the Duchess could be made a Party? *Moved*, that the Counsel be called in, to hear them give an account of the verdict in the King's Bench. After debate, *proposed* to call in the Counsel and ask them for the Duchess, Whether the Duchess of Norfolk was asked to waive her privilege; whether, if she was, she would have done it? and the Duke's Counsel asked, Whether there were any new matters of fact urged in the Court below? After debate, the Counsel for the Duke and Duchess of Norfolk were [called in] and asked, (1) Whether the Lady Duchess was ever sent [to] to waive the privilege? *Sir Cresswell Levinz* says he does not know. (2) Whether, if she had been sent to and desired to waive her privilege, she would have done it? *Sir William Williams:* I believe she would have done it, for she gave her Counsel order to waive it, if the Duke would, and that she would do it. Counsel withdrew, and the Speaker gave the House an account. *Question* put: Whether the Bill offered to this House on the behalf of the Duke of Norfolk for dissolving of the marriage between the said Duke and his Duchess shall be read? Resolved in the *Negative*. Contents 32 (including 3 Proxies); Not-Contents 39 (including 4 Proxies). Tellers, E. Monmouth and L. Howard of Effingham. (MS. Min.; L. J., XV. 170.)]

643. Dec. 23. Place Bill.—Commons' Engrossment of an Act touching free and impartial Proceedings in Parliament.

§ i. Forasmuch as nothing can be of greater importance to the kingdom than that such persons as are elected by the people to represent them in Parliament should faithfully discharge that high trust reposed in them; And whereas in former Parliaments under the late Kings, several members have been so far corrupted as to neglect the true interest of the nation, preferring their own advantage before that of the public; Be it therefore enacted, and it is hereby enacted by, &c., That from and after the first day of February, which shall be in the year of

* *See* Howell's State Trials, Vol. XII. pp. 927–948. The MS. Min. of 23 Nov. 1692 contain the following entry not in L. J.: "House moved that the witnesses' testimonies that were taken in the [case of] the D. Norfolk *v.* his Duchess may be produced there, and that Mr. Relfe may attend at the trial with them."

HOUSE OF LORDS MSS.

1692.

our Lord 1692,* no person or persons whatsoever (who shall after the said first day of February, 1692, be chosen into Parliament, whether as a Knight, Citizen, Burgess or Baron of any of the Cinque Ports) shall, from and after his election to serve in Parliament, during the continuance of that Parliament whereof he shall be a member, accept of any place, office or employment of profit from and under their Majesties or either of them, their heirs and successors. And it is hereby further enacted, that all and every person or persons, who shall after the said first day of February be chosen to serve in Parliament as a Member or Members of the House of Commons, and shall after such choice accept of any such place, office or employment of profit from and under their Majesties or either of them, their heirs and successors, shall be adjudged, and are, and is hereby declared to be, incapable and disabled in law, to all intents and purposes whatsoever, to sit in the said House of Commons and give any voice therein during that Parliament.

§ ii. And it is hereby further enacted, That in every case where any Member or Members of the House of Commons shall by virtue of this Act be disabled to sit or vote in the House of Commons, then and in every such case, without any further conviction or other proceeding against such Member or Members, the place or places for which any of them were elected. is hereby declared void, and a new writ or writs shall issue out of the High Court of Chancery by warrant or warrants from the Speaker of the House of Commons for the time being, and by order of the said House, for the election of a new Member or Members to serve in the House of Commons, in the place or places of such Member or Members so disabled to all intents and purposes, as if such Member or Members were † naturally dead.

§ iii. Provided always and be it enacted that nothing in this Act shall extend or be construed to extend to the Speaker of the House of Commons for the time being.

Parchment Collection. [Brought from the Commons and read 1ª this day (L. J., XV. 164).—On 29 Dec. (the next sitting day after the Christmas recess), after a motion "That the Bill be now read," (MS. Min.), the House ordered the second reading for the next day, and all the Lords to be summoned. (L. J., XV. 165).—On 30 Dec. the 2nd reading was put off till the next day. (L. J., XV. 167).—On 31 Dec. the Question Whether the Bill shall be committed was resolved in the affirmative, after debate, by 48 votes to 33. Tellers, E. Bridgewater and E. Aylesbury. The Previous Question on the Question whether the House shall be now put into a Committee, to proceed on the Bill, was negatived without a division (MS. Min.; L. J., XV. 169).—On 3 Jan. 1692–3 House put into Committee, V. Weymouth in the Chair, and after a long time spent therein, and several questions put upon the several paragraphs in the Bill, the Bill was read through. Title and Preamble read and postponed.

First enacting Clause read. House *moved* to alter this Clause, so that, after a man is incapacitated by the Bill, he may be chosen again by his county or borough. After debate, *Moved* to draw a Clause to leave it in the power of the county to choose again to the same Parliament the person disabled for having accepted office. *Question* put: Whether a Clause shall be added to the Bill to this purpose. Resolved in the *Negative*. Contents 40; Not-Contents 44. Tellers, E. Feversham and L. Berkeley. Then the Clause was read again. *Question* proposed: Whether the word ("pensions") shall be added in the Clause? *Previous Question* put: Whether that Question shall be now put? Resolved

* "1 Jan. 1693" in the Bill reintroduced on 4 Dec. 1693.
† "had been naturally dead" in Ditto.

in the *Negative*. Contents 36; Not-Contents 45. [Tellers not named]. *Question* put: Whether the Clause last read shall stand in the Bill without any amendment? Resolved in the *Affirmative*. Contents 44; Not-Contents 37. Tellers, E. Feversham and L. Berkeley.

The next Clause read, for issuing out new writs. *Question* put: Whether this Paragraph shall stand part of the Bill without any amendment? Resolved in the *Affirmative*. Contents 42; Not-Contents 41. Tellers, E. Feversham and L. Berkeley.

The last Clause read, concerning the Speaker of the House of Commons. *Question* put: Whether this Proviso shall be part of the Bill without any amendment? Resolved in the *Affirmative*. Contents 43; Not-Contents 40. Tellers, E. Feversham and L. Berkeley.

Moved, That the House shall be resumed. *Question* proposed: Whether the House shall be resumed? *Previous Question* put: Whether this Question shall be now put. Resolved in the *Negative*. Contents 40; Not-Contents 43. Tellers, E. Feversham and L. Berkeley. Preamble read, and after debate, *Question* put: Whether this Preamble shall stand part of the Bill without any amendment? Resolved in the *Affirmative*. Title read and agreed to. *Ordered* to report what has been done.

House resumed, and V. Weymouth reported the Bill without amendment. *Question* put: Whether the Bill shall be now read a third time? Resolved in the *Affirmative*. Bill read 3ª accordingly. *Question* put: Whether this Bill shall pass? Resolved in the *Negative* (*sic*). Contents 42; Not-Contents 40.* Tellers: E. Feversham and L. Berkeley. Leave given to dissent on either side. A debate arose whether the Proxies that are entered this day should be allowed upon the Question? † *Question* put: Whether the Proxies entered this day shall be allowed? *Cont.; Not.*‡ Resolved in the *Affirmative*. Then the Speaker reported the Proxies, viz.: Contents 3; Not-Contents 7. The Speaker declared the Bill was rejected. (MS. Min.; L. J., XV. 172.) On 5 Jan. a debate arose concerning the entry in the Book concerning Proxies of 3 Jan. Committee appointed § to consider of that entry and report to the House. *E. Rochester* reported "as to be amended" (MS. Min. Nothing of this in L. J.). This Bill was reintroduced on 4 Dec. 1693, with the variations noted in connection with the text above, and, after amendment, was refused the Royal Assent on 25 Jan. 1693–4.]

644. Dec. 23. Woollaston's Estate Act. — Amended draft of an Act for confirming the sale of certain Wood lands in the County of

* Exclusive on either side of Proxies, which afterwards turned the scale.

† The entry is given in the MS. Journal as follows, the words in square brackets being expunged: "The House having been divided [and counted] upon the abovesaid Question [which was by the Votes carried in the Affirmative], a Debate arose, whether the Proxies of any Lords, that were entered this day, should be allowed upon casting up the Proxies. Hereupon, this Question was put: Whether the Proxies entered this day shall be allowed. It was resolved in the Affirmative. [The Proxies being counted, it was declared that the abovesaid Question upon the Bill was carried in the Negative, and ordered so to be entered.] A marginal memorandum against the last expunged paragraph states as follows: "This entry should regularly have been inserted on the other side before the words ('It was resolved in the Negative')." This explains the otherwise unintelligible entry in L. J., XV. 172. The Division, therefore, including Proxies, was Contents 45; Not-Contents 47.

‡ These words in italics, *i.e.* "Content; Not-Content," not being followed by numbers, seem to show that a Division was challenged on this Question, but not insisted on.

§ The names of this Committee are not given in MS. Min., nor are their proceedings anywhere recorded.

HOUSE OF LORDS MSS. 1692.

Southampton and certain Articles of Agreement made between Isaac Woollaston and Richard Woollaston, Esqrs. [Read 1ª this day; Royal Assent 14 March, 1692–3. L. J., XV. 163, 289. 4–5 W. & M. c. 26. in Long Calendar. The Lords' Amendments (Com. Book, 7 Jan.) are merely verbal. The Commons' Amendment (C. J., X. 807) was to add the concluding proviso with regard to the disposal of the purchase money.]

645. Dec. 23. Stone *v.* Bourne.—Petition and Appeal of Susan Stone. Complains of a decree in Chancery of 31 May 1690 and subsequent Orders, finding Appellant liable in respect of an alleged agreement, implying a partnership in trade, which Appellant states was imposed on her, being old and illiterate, by her son-in-law, the Respondent, without her knowledge, though she admits having put her mark to a certain entry which she did not understand. She had maintained Respondent and his family for many years, and there was a dispute as to the division of profits. Prays that the Decree and Orders may be set aside. *Signed* by Appellant, with her mark; *Countersigned* by Wi. Williams and Tho. Powys. L. J., XV. 164. [The Cause was heard and the Appeal dismissed with 20*l.* costs,* on 26 Jan. 1692–3, after hearing *Sir Thomas Powys* and *Sir William Williams* for the Appellant. (MS. Min.; L. J., XV. 202.)]

Annexed:—

(*a.*) 31 Dec. Petition of Respondent for further time to answer. L. J., XV. 168.

(*b.*) 9 Jan. 1692–3. Answer of Thomas Bourne. Sets out at great length the pleadings and proceedings. The business was a pawnbroking one, carried on by Appellant, Robert Stone, her late husband, and John Holland, husband of their daughter Martha, who, on Holland's death, married Respondent. Prays that the Appeal may be dismissed with exemplary costs. *Signed* by Respondent. *Endorsed* as brought in this day.

646. Dec. 29. Nene River Navigation Bill.—Draft of an Act for making the River Neene in the County of Northampton, navigable from Peterborough to Oundle in the said County of Northampton. The Bill is to the following effect:—

§ i. "Whereas the making navigable and passable with barges, boats, lighters and other vessels the River Neene, in the County of Northampton, from the City of Peterborough in the said County to the town of Oundle in the said county of Northampton, may (with God's blessing) be very advantageous, not only to the said County and places near adjacent, but to the public, by importing of sea-coal, deal, timber and other commodities from foreign parts, of which there is great scarcity in those parts, and by exporting of grain, in which the same county abounds, which, for some parts thereof, the farmers do carry their grain 20 miles through ill and dirty ways to sell, to the impoverishing of tenants and decay of husbandry, whereupon depopulation follows; besides, it will be beneficial for the increase, commerce and trade of able seamen and watermen, and the preservation of the highways"; the Bill therefore enacts that the Lords Commissioners of the Great Seal,†

* A motion that the Appellant should pay 40*l.* costs was negatived. (MS. Min.)

† A marginal note in pencil, struck through, says: "*Quære*, Why the Commissioners after-named may not have power by this Act to appoint under their hands and seals the Undertaker, and so save the charge of a Broad Seal? See the Act for draining Bedford Level, 15 Car. II.

L. Chancellor or L. Keeper, shall and may appoint, by Commission under the Great Seal, Undertakers with full powers to make the river navigable from Peterborough to Oundle, and for that purpose to cleanse, scour and open the same, and cut or dig the banks and remove all impediments, except mills, and make weirs, locks, &c., and cleanse, scour, open or cut the banks of any other stream or watercourse, and erect sasses, locks, &c., in or near the river or passages, and bring, lay or work all materials requisite for repairing the locks or turnpikes, and cut new channels for altering the course of the river, and do all things necessary for the purposes of the Act.

§ ii. And to prevent prejudice to any persons, or bodies politic or corporate, having any lands, tenements, &c. adjoining the river, the Undertakers, before meddling therewith, shall first agree with them for any loss or damage, or procure an order from the Commissioners, to be assigned for that purpose by the Act.

§ iii. And for the better effecting the premises, and for the due rating of the value of the things to be compounded for, if the parties shall not agree, a Commission or Commissions under the Great Seal * shall be granted, at the request and cost of the Undertakers, to (*blank*), which Commissioners, or any five of them (not being parties concerned) shall have power, by examination of witnesses upon oath, or otherwise, to hear and determine all controversies and questions concerning the premises, and decree satisfaction for losses sustained, ten days' notice of their meetings being posted in the market-places at Peterborough and Oundle, and left with all parties concerned; which determination shall be binding and shall be set down in writing under their hands and seals within six weeks after the first resort to them for that cause, and kept among the records of the Sessions of the Peace for the County, and on payment of the sums ordered, it shall be lawful for the Undertakers to proceed with the works for which such Order or agreement shall be made.

§ iv. When any of the Commissioners shall die, or become unfit for, or renounce the service, the Lords Commissioners, Chancellor or Keeper of the Great Seal† may fill their places from the nobility or knights and principal gentlemen of the County, dwelling or having estates within 15 miles of the river, which new Commissioners, not exceeding the original number, nor being under the number of (*blank*), or any (*blank*) or more of them, shall have all the powers of the original Commissioners under the Act; and all the Commissioners, so to be supplied in future, or any (*blank*) of them, shall have power to survey the river and haven, &c., and make such orders, &c. for the removal of impediments, annoyances, &c. as any Commissioners of Sewers may do in other rivers.

§ v. The Undertakers, with the consent of the Commissioners, may make orders and constitutions for the good and orderly usage of the river, &c., and rates for carriages thereon, with reasonable pains and punishments for their infringement, which orders and constitutions, being signed and sealed by the Undertakers, and allowed by the Commissioners or any (*blank*) or more of them under their hands and seals by [*sic*] the Justices of Assize of the county, shall be binding on all persons, and the same, together with transcripts, shall be kept amongst the records of the County Sessions by the Clerk of the Peace. Never-

* A similar note says: "*Quære*, Why the Commissioners may not be appointed and empowered by this Act, and so save the charge of the Broad Seal? See the Act for draining Bedford Level, 15 Car. II. c. 17."

† A similar note says: "*Quære*, Why the major part of the remaining Commissioners may not choose new ones, as it is in the Act for draining Bedford Level, 15 Car. II. c. 17?"

HOUSE OF LORDS MSS. 1692.

theless, the said Justices of Assize, on complaint made by any persons aggrieved, may abridge, moderate, alter or reform the said orders and constitutions, as they shall find just cause. Special care shall be taken in assessing rates and making orders, and to prevent the Undertakers or any other from engrossing the commodities of the county, or imposing upon the markets.

§ vi. The Undertakers, their heirs and assigns, after having first given satisfaction as aforesaid, shall take and enjoy all the rates and profits payable for water-carriage, and receive all penalties imposed by the orders, and shall have power to sue for the same, or distrain or stop the goods, till payment is made, and all fines and amerciaments for any annoyances or offences to the hurt of the river shall be to their sole use and benefit.

§ vii. And for that the barges, boats, &c. must of necessity sometimes and in some places be haled up by strength of men, horses, winches, engines or other means, it shall be lawful for watermen, &c. to use winches, ropes and other engines and to go upon the banks in convenient places for that purpose.

§ viii. The river and works for making it navigable shall be in the sole rule, order and survey of the Undertakers and Commissioners, and not subject to any Commission of Sewers.

§ ix. Any person, against whom any action shall be brought for anything done by virtue of this Act, may plead the general issue, and give the Act in evidence.

[Read 1ª this day (L. J., XV. 165); Committed 9 Jan. 1692–3 (*Ib.* 177). The Committee met (V. Halifax in the Chair) on 11 Jan., and ordered all persons concerned to be heard on the 13th, on which day they met again (V. Longueville in the Chair), but only to adjourn to the 16th (Com. Book). No further proceedings.]

647. Dec. 29. Seymour's Estate Act.—Amended Draft of an Act for the better assurance of the Manor of Woodlands and Hundred of Knolton unto Edward Seymour, Esq. The Lords' amendments (Com. Book, 6 and 9 Jan. 1692–3)* are a verbal one, and another, inserting the date of the purchase of the manor by Edward Seymour. [Read 1ª this day; Royal Assent 14 March 1692–3. (L. J., XV. 164, 289). 4–5 W. & M. c. 29. in Long Calendar. Com. Book, Jan. 5, 6, 7 and 9.]

Annexed :—

(*a.*) 6 Jan. 1692–3. Consent of Sir Edward Seymour to the passing of the Bill. *Signed* Edw. Seymour. *Not attested.* [Read in Committee this day. (Com. Book.)]

(*b.*) 21 Jan. Petition of Ralph Hastings, Esq. Prays to be heard by Counsel against the Bill, having a very good title in reversion to the lands, of which the Bill, if passed, will debar him. L. J., XV. 194. [Counsel was ordered to be heard on 11 Feb. (*Ib.* 222), but there is no entry of any hearing.]

648. Dec. 30. Privilege of King's Servant (J. Harrington).—Petition of John Harrington, Esq. Petitioner, a gentleman of his Majesty's Privy Chamber in ordinary, as by the Certificate, annexed to the Petition, appears, was committed on 5 Dec. to the King's Bench prison in execution at the suit of Bullen Reymes, Esq. Prays for his discharge. [Read this day and Petitioner discharged. L. J., XV. 166.]

Annexed :—

(*a.*) 30 Dec. Certificate of E. Dorset that John Harrington is sworn as one of the Gentlemen of his Majesty's Privy Chamber

* The MS. Min. of 4 Jan. state that the Committee was "revived" for the next day.

in ordinary, by virtue of which place he is to enjoy all rights and privileges thereto belonging. His person is not to be arrested or detained without E. Dorset's leave, nor is he to bear any public office whatever, nor be impannelled on any inquest or jury, nor warned to attend at assizes or sessions, whereby he may pretend excuse to neglect his Majesty's service. *Dated* 14 May 1691. [Appended to preceding.]

(*b.*) 30 Dec. Extract from Records of Court as follows:—"Johannes Harrington reddidit se in Custod. Marescall. in exoneratione manucaptorum suorum adš Bullen Raynes, Ar., 21 Januarii, 1691. Burleigh. W. Dolben.

M. (92) Et postea in Executione adš Bullen Rymes, Ar., p̃. 200*l.* & 40*s.* Ettrick. C. Jones." [Appended to above.]

649. Dec. 30. Warre *v.* Praed.—Petition and Appeal of William Warre. Daniel Gates, a merchant in currants, sent in 1680 the ship *Old African* of London, of which he was the owner, with great sums and effects in her to Zante and the Morea, to bring home a cargo of currants, and consigned her to John Praed, a merchant then residing in those parts, with directions to buy and load the currants for Gates' account. Praed did so, and one Pindarves, his partner, paid for them. Gates received the currants and sold them, but never accounted to Petitioner, a partner in half the cargo, for his moiety. Petitioner having made good to Gates whatever was due on account of his partnership, and never having employed Praed as his factor for the cargo, is no ways liable to Praed, who bought on Gates' sole account, and never made any claim against Petitioner until after Gates' death, when, about two years ago, he brought a Bill in Chancery against Petitioner and Agnes, Gates' administratrix. The Court on 5 Dec. 1691 decreed Petitioner and Agnes Gates to account and pay, with costs of suit, and on 25 Feb. last refused their application for a Commission abroad to examine witnesses. Prays that the Decree and Orders may be reversed and proceedings stayed. *Signed* by Appellant; *Countersigned* by Tho. Powys and Rich. Holford, who certify that there is just cause of Appeal. [Read this day, and proceedings below stayed. (L. J., XV. 167.) The Cause was heard on 27 Jan., *Sir Ambrose Phillipps* and *Sir Thos. Powys* being heard for the Appellant, and the *Solicitor General* and *Mr. Ward* for the Respondent. Decree affirmed with 20*l.* costs. (MS. Min.; L. J., XV. 204.)]

Annexed:—

(*a.*) 13 Jan. 1692–3. Answer of John Praed. The cargo of currants cost about 20,000 dollars, of which Respondent received only 1,100. The bills of lading were not, as alleged, in Gates' name, but "for account of whom they concerned." Respondent could not bring his Bill earlier, as Appellant caused his books, &c. to be taken away from him at Zante. The application for a Commission was frivolous. Prays that the Appeal, which is merely for delay, may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Hen. Penton. *Endorsed* as brought in this day.

(*b.*) 26 Jan. 1692–3. Petition of Agnes Gates, Widow, and William Warre, Merchant. The Petitioner Gates was also a Defendant with Appellant, and has likewise brought her Appeal against the Decree and Orders complained of. Pray that the two Appeals, which are much for the same matter and the same cause, may be heard together. *Endorsed* as read this day and

HOUSE OF LORDS MSS.

1692.

dismissed. L. J., XV. 203. [Gates' Appeal was brought this day, but withdrawn, on motion, on 6 Feb. (L. J., XV. 202, 216)].

650. Dec. 31. Bowtell and another *v.* Appleby.—Petition and Appeal of William Bowtell and Godfrey Webster. The Petitioner Bowtell fitted out at London in 1687, at the expense of 760*l.*, the ship *Unity*, afterwards called the *Asia Minor*, for a voyage to Algiers, with a cargo of above 3,000*l.* value, consigned jointly to Lionell Crofts and Respondent, the latter of whom he made master and super-cargo, instructing him to call at Malaga on his way home with wheat and barley, and bring thence his effects from one Robert Swaile, and giving him a bond to pay him out of the cargo what Crofts owed him. Respondent arrived at Algiers in June, but having there inveigled Crofts to sign his accounts, on promise of the cargo, he refused afterwards to admit Crofts with him in disposing of it, according to the consignment; and so quarrelling among themselves, the Government seized a great portion of it for Crofts' debts, and restitution being denied, Respondent thereupon, taking a certificate from the British Consul, prolonged his stay at Algiers unnecessarily till October, and did not return to London till after 17 months, having refused to take in goods tendered to him on Appellant's account, which the latter was bound by contract to deliver in London, but bringing two horses for the Duke of Grafton and coffee on his own account. On his return he brought a Bill in Chancery against Bowtell and the other Appellant Webster, who had bought the ship, for the expenses of the voyage, besides cargo, &c. Bowtell brought a cross-Bill for his cargo and for discovery of breach of orders. The Court, on hearing both causes, made a Decree on 19 Dec. 1690 and subsequent Orders, which Appellants pray to have reversed, assigning reasons. *Signed* by Appellants; *Countersigned* by William Squibb and Edw. Ward. L. J., XV. 169. [The Cause was heard on 23 Jan. *Mr. Finch* and *Mr. Ward* were heard for the Appellants, and *the Solicitor-General* and *Mr. Penton* for the Respondent. On question, whether the Decree shall be reversed, Resolved in the *Negative*.* Contents 13; Not-Contents 18. Tellers, V. Weymouth and L. Cornwallis. Decree affirmed accordingly. (MS. Min.; L. J., XV. 196.)]

Annexed:—

(*a.*) 9 Jan. 1692-3. Answer of Stephen Appleby. In 1686 Lionel Crofts, being owner of the ship *Asia Minor*, employed Respondent as her master, to take her from Algiers to London. On his arrival there in September, the Appellant Bowtell, Crofts' uncle, undertook to fit out and load the ship for a return voyage to Algiers. The cargo for this voyage, so far from costing 3,000*l.*, did not cost much over 1,000*l.* Respondent, being owed 150*l.* 15*s.* 8*d.* for wages, &c. for the previous voyage, only consented to go as master to Algiers on obtaining a bond for payment thereof by Crofts, but, the sum being left blank, the bond was worthless, as Bowtell well knew. Bowtell pretended, before parting with Respondent, that Crofts had embezzled a previous cargo, bought with public money, which he had sent him for the ransom of English captives, and had forged certificates under the English Consul's hands, of the redemption of several slaves, who had never been redeemed, and several others were only hypothecated to Leghorn for their ransom money, which was also kept by Crofts, the captives being left in slavery, as King James was informed. Bowtell further told Respondent

* The MS. Min. state wrongly "in the Affirmative."

that if he did not take another cargo to redeem these slaves, he was ruined; that Crofts owed him large sums, and would assign to him the ship on a bill of sale, which was accordingly prepared. Matters being thus settled, Bowtell carried Respondent to Whitehall before the Council, and there made a speech how happy it was for him and the poor slaves at Algiers that he had met with such an honest master as Respondent to carry the said cargo for their redemption, and withal assured the Council that all things should be complied with and the slaves redeemed, as the King expected, and by this means, and not till then, Respondent found the second cargo was none of Bowtell's, but was bought with money paid to him by the King and the Bishop of London, collected by charity throughout the kingdom, for the redemption of poor English captives at Algiers. The ship being at Gravesend, ready to sail, Bowtell gave Respondent two lists of captives to be ransomed, and some orders in writing to get the bill of sale signed by Crofts, to make strict scrutiny, name by name, for the captives demanded by the Lords and those on the Bishop's list, and bring back any he found, on the cheapest terms he could, out of the proceeds of the cargo, and to free Bristol and Barker of Weymouth out of any surplus. He was then to load up with rice, coffee, brooms and Malaga wax for England, or anything else more advantageous for Bowtell's interest, but to touch at Marseilles or Leghorn with what captives he brought off, full powers of discretion being left him as to the voyage home. Bowtell would have no partner in the ship nor in the cargo, and no other orders were given to Respondent. On Respondent's arrival at Algiers, Crofts signed the Bill of Sale, and Respondent delivered the cargo on shore, which was at once seized by the Governor and Bassaw, on pretence of a debt from Crofts to that Government, and not upon any quarrel or difference between Respondent and Crofts. Respondent, being in great distress, consulted the English Consul who advised him to stay there till the Duke of Grafton's arrival, and that was the only reason why he remained there so long, doing his best, in the meanwhile, but unavailingly, to recover the cargo, which Bowtell had sent colourably, to pacify the King and Council, knowing well it would be seized, and with the object of getting Respondent seized and kept in slavery, and thus concealing his wicked dealings. The captives to be released were about 48. On the arrival of D. Grafton, L. Berkeley and Sir Cloudesley Shovell before Algiers, with a squadron of men-of-war, in order to treat with that Government about confirming the former peace, the Duke sent L. Berkeley and Sir C. Shovell on shore, to go with the Consul to the Governor and demand the cargo, which they accordingly did; but the Governor refused, and called Respondent "dog" and bade him begone. Respondent then sought the Duke's protection, but, going on shore to get his clearings, was seized and dragged a prisoner into the town, and the natives were coming down to seize the ship also, but L. Berkeley, having notice of it, leapt off the mole into his boat and put off to Respondent's ship, calling for what firearms they had, and with the help of the ship's crew, cut the anchor cable and defended themselves against the natives and got the ship off to the Duke, who manned his boat and put out a flag of truce and sent to the Governor demanding the surrender of Respondent and the cargo. This so alarmed the country, that they

HOUSE OF LORDS MSS.

1692.

gave up Respondent, but not the cargo, and Respondent was forced to leave without redeeming any of the slaves, several of whom are since dead, and with only 80 dollars to keep himself and men. Prays that the Appeal, which is vexatious, may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Hen. Penton. *Endorsed* as brought in this day.

(*b.*) 10 Jan. 1692–3. Petition of Respondent for an early day for hearing. The Appellant Webster was Bowtell's bail. L. J., XV. 178.

651. Dec. 31. Price's Estate Act.—Amended Draft of an Act to enable Roger Price, Esq., to sell some part of his estate for payment of portions to the daughters of John Price, Esq., deceased. [Read 1ª this day; Royal Assent 14 March 1692–3. (L. J., XV. 168, 289.) 4–5 W. & M. c. 35. in Long Calendar. The only material amendments made by the Lords in Committee (Com. Book., 17 Jan.)* are to add Cadwalader Wynne to the Trustees, and to insert the Proviso in Annex (*b.*) below. The Lords' Amendment on third reading (L. J., XV. 195 occurs in Press 6, Line 21, and is a purely verbal one. The Commons' Amendments are given in C. J., X. 825.]

Annexed:—

(*a.*) 18 Jan. 1692–3. Lords' Amendments to the Bill. [Made in Committee 17 Jan. (Com. Book), and reported this day. (L. J., XV. 188.)]

(*b.*) 18 Jan. 1692–3. Proviso as to vesting the unexpired term of 100 years in Owen Thelwall, the surviving Trustee. [Added in Committee 17 Jan. (Com. Book) and reported this day. (L. J., XV. 188.)

1692–3.

1692–3.

652. Jan. 3. Ward and others *v.* Turnor.—Petition and Appeal of James Ward, Esq., Roger Jacson, Christopher Cratford, John Adams and others. Sir Edward Turnor, Knt., owing 16,000*l.* on mortgages, &c., applied for a loan to the Petitioner Adams, who agreed to furnish him with the money at 6 per cent. interest on an assignment of his securities, and thereupon Sir Edward in 1687 conveyed the premises to Petitioners as security for 13,000*l.*, and afterwards made a conveyance for 3,000*l.* more, both defeazanced for payment of the 16,000*l.* with interest at 6 per cent. The money lay ready to pay off the incumbrances on the estate as Sir Edward could get the incumbrancers to receive their moneys and assign their securities; but Sir Edward neglecting to get some of them to do this, part of the 16,000*l.* lay dead for some time in Adams' hands, though afterwards paid, and on Sir Edward's failing to pay either principal or interest, Petitioners brought their ejectment and obtained judgment. Sir Edward then brought a Bill in Chancery to redeem the estate, and the Court, on 30 June 1691, decreed him redemption on payment of principal and interest at 5 per cent., and that not from the time when the conveyances were sealed, but only from the times when the moneys were paid to take in the incumbrances, which it was incumbent on Sir Edward and not on Petitioners to procure. Sir Edward is thus discharged from paying interest on 6,000*l.*, which lay in Adams' hands to pay off the debt of one of the incumbrancers, Sir William Gosling, and Adams, who was only the Agent who provided the money, is to pay

* An entry in MS. Min. of 16 Jan. states that E. Radnor, V. Weymouth, and the Bishops of Lincoln and of Coventry and Lichfield were added that day to the Committee. The Bishop of Lincoln, however, appears in L. J., XV. 182, as one of the Committee originally appointed on 14 Jan.

Turnor the costs of the suit. Pray that the Decree may be reversed and Sir Edward ordered to answer. *Signed* by the Appellants named above; *Countersigned* by J. Somers and Wm. Whitelocke. L. J., XV. 171. [The Cause was heard on 10 Feb. 1692–3. *Sir William Whitelocke* (for Appellants): The question is whether the Court of Chancery can decree contrary to an agreement expressed, without a positive agreement to the contrary. The Chancery says: You shall have but 5 per cent., when the agreement is for 6 per cent. *Mr. Finch* (for Appellants): We complain of a Decree that allows us but 5 per cent. *Solicitor-General* (for Respondent): Sir Edward Turnor is to pay double interest. Sir William Gosling's money not paid. The whole sum is 13,000*l.* Mr. Adams was the man we dealt with. *Sir Ambrose Phillipps:* I cannot say we have proved any agreement against 6 per cent. The question is only between Mr. Adams and Sir Edward Turnor. 28 May 1687 the conveyances were executed, and interest is charged from 5 May. He gives us no copy of the deeds. Reads the items of the account. When he charges 14,000*l.*, he had actually paid but 3,000*l.* Says the Court: You shall have interest from the time you paid it. Depositions of Cramp, John Wilson, and Christopher Sparks read. The Account read. Deposition of Warwick Stephens read. *Sir William Whitelocke* and *Mr. Finch* are heard in reply. This Warwick Stephens was Sir Edward's footboy. Counsel withdrew, and the Speaker reported. *Ordered* that the Decree be reversed. (MS. Min.; L. J., XV. 223.) For further proceedings see Notes to Annex (*b*) below.]

Annexed:—

(*a.*) 19 Jan. 1692–3. Answer of Sir Edward Turnor, Knt. Adams agreed in 1687 to procure for Respondent, on the security of his estate, 20,000*l.* at 5 per cent., that being the highest rate of interest then, as now, generally paid for moneys lent on mortgages, and especially for considerable sums. Respondent treated with Adams alone, and Appellants Jacson and Cratford have declared that they lent no money, and that Adams used their names without their privity. The decree is only against Adams, who oppressed Respondent, and refused him counterparts or copies of the conveyances. Respondent thereupon applied to Sir Robert Clayton, who agreed to advance him 20,000*l.* at 5 per cent., if Mr. Ewer, who had passed the conveyances for Adams, would approve the title. Adams refused to show the deeds, and incited Respondent's creditors to prosecute him. Adds further details which appear in next Paper. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by P. Bowes. *Endorsed* as brought in this day.

(*b.*) 18 Jan. 1693–4. Petition of Sir Edward Turnor. Petitioner having agreed with John Adams, a scrivener, one of the Appellants, for a loan of a considerable sum, executed on 28 May 1687 an absolute conveyance, dated the 6th of the preceding April, of a great part of his estate to such persons as Adams nominated, in consideration of 13,000*l.* upon an agreement for a redemption thereof, 6,000*l.* of which was acknowledged by the deed to be paid to Sir William Gosling, one of Petitioner's creditors, and the remaining 7,000*l.* was mentioned to be paid to Petitioner, but by another deed of the same date it was declared that the 7,000*l.* should be paid by Adams to the rest of the creditors, according to their priority. Petitioner, being greatly imposed on by Adams in his accounts, there being only 100*l.* paid when the deed was sealed, and 3,700*l.* in thirteen

HOUSE OF LORDS MSS.

1692–3.

months after by several payments, while Adams charged Petitioner with interest on the whole 13,000*l.* from 15 April 1687, being 700*l.* too much, brought a Bill in Chancery against Adams, as well as James Ward and Christopher Lethieulier, Esqrs., and Roger Jacson and Christopher Cratford, Gents., for redemption of his estate, and against Adams for his demand of 6 per cent. interest, and the Court, on 30 June 1691, decreed that he should redeem on paying 5 per cent. interest from the times each sum was advanced. This Decree was generally reversed by the House on 10 Feb. last, but it remained doubtful on what terms Petitioner should have the redemption and reconveyance of his estate. Prays their Lordships for a declaration, and for a short day for hearing both parties. L. J., XV. 346. [On 26 Jan. 1693–4, after hearing *Sir Thomas Powys* for Petitioner and *Sir Bartholomew Shower* for the Appellant Ward, the Judgment was explained with directions. (MS. Min.; L. J., XV. 353.)]

(*c.*) 24 Jan. 1693–4. Petition of Respondent. The suit in chancery which came up on Appeal to the House, was instituted in consequence of Adams having caused declarations of ejectment to be delivered for the mortgaged estate, which was worth between 40,000*l.* and 50,000*l.* Respondent gave a judgment upon the ejectment, subject to the order of the Court, whereupon an injunction was awarded to stay proceedings at law, which was continued by the Decree in Chancery. In May 1693, the Appellants moved that a Receiver of the estate might be appointed, and the injunction dissolved, but the Lord Keeper decided that he could do nothing. Appellants then took out execution on the judgment in ejectment, which forced Petitioner to bring a Writ of Error. Appellants have required from the Sheriff a return of the *Scire facias* for Petitioner to assign error, and even since notice of their Lordships' order to hear Counsel on the 25th inst., their attorney has taken the return away from the Sheriff, as appears by the Sheriff's letter annexed, and threatens to turn Petitioner out of the estate. Prays that all proceedings in ejectment and Writ of Error may be stayed pending the hearing of Respondent's last Petition. L. J., XV. 349.

(*c.*[1]) 24 Jan. 1693–4. Letter from Tho. Stokes to Respondent, referred to in preceding, stating that the attorney, Mr. Turvill, had required him to return the several *Scire facias* in his office against Respondent, to revive the judgment in ejectment at the suit of Daniel Alford, Gent., on the demise of Sir Jas. Ward, Christopher Cratford, and Roger Jacson. *Dated* Clement's Inn, 23 Jan. 1693. [Appended to preceding.]

653. Jan. 3. Macclesfeild *v.* Macclesfeild and another.—Petition and Appeal of Ralph Macklesfeild, Gent. Petitioner's grandfather, Peter Macklesfeild, died in 1656, being seized in fee of the manors of Chesterton and Mare, and other lands in Staffordshire, worth 300*l.* a year. Being a Recusant, to shelter his estate from sequestration, he vested some estate in Chesterton in Andrew Vize and Thos. Clayton, and mortgaged for some inconsiderable sum or conveyed the manor of Mare to Charles Chapman, as trustees for himself and heirs. After his death, his second son, Thomas, Petitioner's uncle, procured conveyances of the manors, in the case of Chesterton, to the use of his wife Mary, the Respondent, and in the case of Mare, for himself, for little or no consideration. Appellant brought a Bill, and afterwards a supplemental Bill, in Chancery for discovery against Mary and her son

Peter, then an infant, but his Bills were dismissed on 28 Jan., 33 Car. II., on the ground that Appellant was illegitimate, notwithstanding the proof to the contrary. The conveyances were fraudulent, and Respondents had full knowledge of Appellant's title before they were made. Prays that the decrees may be reversed. *Signed* Ralph Mackellsfeild; *Countersigned* by Wi. Williams and Jo. Danyell. L. J., XV. 171. [The Cause was heard and the Decree affirmed with 20*l.* costs on 9 Feb., the *Solicitor-General* and *Sir William Williams* appearing for Appellant, and *Sir Francis Winnington* and *Sir Thomas Powys* for Respondents. *Sir Thomas Powys:* After two dismissions and fines, and two jointures, he is come hither. (MS. Min.; L. J., XV. 221.)]

Annexed:—

(*a.*) 20 Jan. Answer of Mary Macklesfeild, widow, and Peter Macklesfeild, her son, by Thomas Macklesfeild, her late husband, deceased. Peter, the grandfather, sold the manor of Chesterton, after the determination of a lease to one Badely, which expired in 1673, to Vize and Clayton, who sold it, also on valuable consideration, to Respondent Mary's late husband, who, in consideration of 800*l.*, part of her marriage portion, settled it on William Woodfeild, Thomas Lyon, and Thomas Barret, in trust for himself and his wife for their lives, and after them, for their son and his heirs. The manor, &c. of Mare descended to Respondent Peter, as son and heir of Thomas, who bought the inheritance expectant on the determination of a lease then in being from one Charles Chapman for 500*l.*, to whom it had been sold in 1631 for the same sum. Appellant's first Bill was dismissed on 27 Nov., 30 Car. II., and the second Bill was dismissed, with a conditional order for costs if he brought a further Bill. Respondents mortgaged the manors to John Jackson, of Wolverton, co. Stafford, and Richard Thorley, near Stafford, for 600*l.*, to defray their expenses of the suit, and paid off these mortgagees out of 1,100*l.* borrowed from Humphrey Perry on Chesterton alone. The Respondent, Peter, on his marriage with Margaret Bell, who brought him a considerable portion, vested both manors, which he held by purchase and inheritance, in trustees for himself, his wife and their children, and had borrowed money upon the premises; and the Appellant had taken no action for 11 years after the last dismission. Pray that the Appeal may be dismissed with costs, as vexatious. *Signed* by Mary Macclisfeild and Peter Macclesfield; *Countersigned* by Fra. Winnington. *Endorsed* as brought in this day.

(*b.*) 28 Jan. Petition of Appellant for a day for hearing. *Signed* Ralph Macklesfeild. L. J., XV. 206.

654. Jan. 3. Pitt's Estate Act.—Amended Draft of an Act to enable Trustees to sell part of the lands and tenements of Mathew Pitt, Esq., and Robert Pitt, Gent., for the payment of debts and to settle the rest of their lands upon the said Mathew and Robert, and the wife of the said Robert, and their issue. The Lords' Amendments* are to read ("Henry Wallis") instead of ("William Wallis"), and ("1,000*l.*") instead of ("2,200*l.*") as the debts on bond of the two Pitts; to add ("Charles Raymond") to the names of Trustees; to give Matthew Pitt the elder ("40*l.*") instead of ("60*l.*") yearly rent; to substitute for ("cease and determine") at the end of the section dealing with the

* The Commons' Amendment, to which the Lords agreed (L. J., XV. 249) is given in C. J., X. 816.

HOUSE OF LORDS MSS. 1692–3.

portions, the words beginning ("attend and wait upon the reversion") down to ("for that purpose mentioned"); to insert the Proviso (Annex (*a*) below), and to substitute the Schedule A as in Annex (*b*) for one leaving blank the names of some of the bond creditors, giving 30*l.* instead of 20*l.* as the debt due to Bysick, and adding sums of 20*l.*, 30*l.*, 50*l.*, and 80*l.*, due to persons unnamed; the whole representing 19 sums, amounting to 1,190*l.* [Read 1ª this day; Royal Assent 14 March. (L. J., XV. 171, 289.) 4–5 W. & M. c. 30. in Long Calendar. Com. Book, 12, 17 and 19 Jan.]

Annexed:—

(*a*.) 21 Jan. Draft Proviso, marked ✠, appended to Bill. [Added in Committee 19 Jan., just before the Saving Clause (Com. Book), and reported this day. (L. J., XV. 194.)]

(*b*.) 21 Jan. Draft of Schedule A, appended to Bill. [Added in Committee 19 Jan., in lieu of the Schedule given above (Com. Book), and reported this day. (L. J., XV. 194.)]

655. Jan. 5. Popham's Estate Act.—Consent of Alexander Popham, brother of Sir Francis Popham, K.B., to the passing of the Act to enable Alexander Popham, Esq., to settle a Jointure upon his wife, and to make provision for younger children, upon receipt of 12,000*l.* Portion, to be applied for payment of his debts. *Dated* 14 Dec. 1692. [Read in Committee this day. (Com. Book.) The Bill was brought from the Commons on 29 Dec.; Royal Assent 20 Jan. (L. J., XV. 165, 192.) 4 W. & M. c. 8. in Long Calendar. Com. Book, Jan. 3, 5 and 6.]

656. Jan. 7. Nicoll *v.* Keigwin.—Petition and Appeal of Humphrey Nicoll, Esq. Petitioner's father, Anthony, being seized of the manor of Trelill, co. Cornwall, and other lands there, and also of the reversion of certain lands called Upton *alias* Tupton, expectant on a lease granted to Dorothy, wife of Thos. Hutton, Clerk, conveyed in 1652 the said manor and other lands to John Nicoll, Gent., and others, in trust to pay his debts and portions to his younger children, by demise or lease of the premises for any term not exceeding 21 years or three lives, reserving the ancient rents and services, and after such payment, to the use of Anthony and his heirs, with a proviso to be void on tender of 1*s.* to the Trustees. On Anthony's death, the reversion of Upton descended to Petitioner, his son and heir, then a minor. William Keigwin, having an estate next to Upton, bought in Dorothy's lease, and falsely pretended that he had agreed with John Nicoll for a conveyance to him of Upton, as being part of the manor of Trelill and consequently within the trust, although the clause in the deed, giving the Trustees power to sell, is interlined and inconsistent with the context, and pursuant to this alleged agreement John Nicoll in 1662 granted him the inheritance of the estate. William Keigwin died, and left his son John his heir and administrator, and the term for 99 years in Upton being expired, Petitioner brought his action to recover the lands. John Keigwin, being conscious of his defective title, brought a Bill in Chancery in 1685 to compel Petitioner to confirm the conveyance of Upton, which he pretended had been fairly purchased; and on 11 Feb. last, though it appeared that the trustees had no power to make the sale, the Court decreed against Petitioner with costs. The estate was not within the trust, nor was the pretended purchase money applied to the trust. Prays that the Decree may be reversed, and Respondent ordered to answer. *Signed* by Humphrey Niccoll; *Countersigned* by Edw. Ward and Jonath. Gorstelowe Snow, who certify that there is

just cause of Appeal. L. J., XV. 175. [The Appeal was dismissed with 40*l.* costs on 21 Feb., no Counsel appearing for the Appellant. (MS. Min.; L. J., XV. 241.)]

Annexed:—

(*a.*) 27 Jan. Petition of Respondent for further time to answer, Respondent and his papers being almost at the Lands End in Cornwall. L. J., XV. 203.

(*b.*) 8 Feb. Answer of John Keigwin, Esq. The reversion of Upton did not descend to Appellant, being part of the manor of Trelill, and so conveyed to the trustees, who were Anthony's brother, John Niccoll, and his friends John Pincombe, Phillip Lower, and John Barrett. The trustees sold the inheritance of Upton for 147*l.* to Respondent's father, the purchaser of Dorothy's lease, by whom the estate was conveyed to Respondent. Knows nothing of any interlineation. On Appellant's coming of age, the trustees reconveyed to him the lands remaining unsold, and Appellant gave security by bond in 3,000*l.* to confirm all the sales made by them. Appellant brought his action after all the trustees were dead, and he had got all the deeds, showing Respondent's title, into his possession. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Chich. Yonge. *Endorsed* as brought in this day.

(*c.*) 11 Feb. Petition of Respondent for an early day for hearing. L. J., XV. 224.

(*d.*) 4 April 1694. Petition of Margaret, the relict, and James Keigwin, Esq., son and heir of Respondent. Respondent last June, through Samuel Hutchins, his servant, demanded payment of his costs, pursuant to their Lordships' order, but Appellant refused. Respondent dying the same month, left Petitioners his residuary legatees, who have taken out letters of administration. Appellant did not enter into any Recognizance. Prays that he may be compelled to obey their Lordships' order. [An expunged entry in MS. Min. of date states that the Petition was read this day. No order was made. No entry in L. J.]

(d^1.) 4 April 1694. Affidavit of Sampson Hutchins, of Burgan, co. Cornwall, stating that he served their Lordships' order of 21 Feb. 1692–3., on Appellant and demanded payment and produced a receipt ready for him, but that Appellant refused to pay. *Sworn* 29 March 1694, at Truro, before John Foote, Extraord. Mag. Canc. Underwritten is a certificate of John Manley, J.P. for Cornwall, that Hutchins was duly sworn to the truth of the affidavit. *Endorsed:* Keigwin's Petition read; nothing done on it. [Appended to preceding Paper.]

657. Jan. 9. D. Northumberland's Privilege (John Smith).—Affidavit of John Smith, hunting groom of the stables to D. Northumberland, as to his arrest on 15 Aug. last, at the suit of John Sawyer, by Richard Best and Thos. Bishopp, bailiffs to the Sheriff of Middlesex, who took no cognizance of the Protection he produced. Deponent was kept 14 days in Newgate, and had to remove himself by Habeas Corpus to King's Bench Prison, before he could obtain his liberty. *Sworn* 6 Dec. 1692 before Rob. Legard, Master in Chancery. L. J., XV. 176. [*Smith*, being sworn this day, said the affidavit was true, and that he was a menial servant to the Duke. Asked whether he received wages, he said no. The *Duke* owned that he gave no wages. *Ordered* that the parties be attached (MS. Min.). On 11 Jan. the MS. Min. have

HOUSE OF LORDS MSS. 1692-3.

as follows: "House moved that persons be called in concerning the breach of privilege of D. Northumberland. 'He said he would not obey it. I did not show him the order.'" (No entry in L. J.) White was discharged on the 18th (L. J., XV. 188). *See* also *Ib.* 287].

658. Jan. 11. L. Mohun (Murder of Mountford).—Petition of Charles, Lord Mohun. Petitioner, after voluntarily surrendering to the constable, was on 10 Dec. last carried before the Justices at Hicks' Hall touching the supposed murder of Mr. Wm. Mountford, where three of the Justices took the examinations of 13 witnesses, none of which could charge Petitioner with the murder, but it appeared that Mountford was killed by one Capt. Hill, who is since fled for it, whereupon the Justices took Petitioner's bail. Since then, a fresh warrant is out against him, and to avoid a chargeable imprisonment, he withdrew himself, but knowing his innocence, is willing and ready to surrender to the House. Prays for a speedy trial at the Bar, and to be admitted meanwhile to bail. [Read this day, and referred to the Committee for Privileges, with the assistance of Holt, C. J. (L. J., XV. 179). The proceedings consequent on this Petition were as follows:—

13 Jan. In Committee for Privileges, M. Halifax in the Chair, the Order of Reference and the Petition are read. [*Agreed*] to report, that they do not find any Precedent that a Peer was tried at the Bar of this House, but in Westminster Hall. Concerning Bail:—E. Lincoln's case cited. The Book was read in this case. E. Pembroke's case read, 22 March 1677. *Proposed* to consider the time he can be tried, and to send for what is found against him by the Coroner or otherwise. *Agreed*, that the Coroner's Inquest be sent for. *Proposed*, to consider what time he may be tried. [*Agreed*], That a convenient time be set for L. Mohun's trial, and that he be sent to the Tower of London. (Priv. Book.)—The same day the House was informed that L. Mohun had surrendered. *Ordered* that he be committed to the custody of the Black Rod until further order (MS. Min.; L. J., XV. 182).

On Report on 14 Jan. (L. J., XV. 183) the House made several orders (L. J., XV. 184), before which the MS. Min. have the following cancelled entry: "*Holt, C. J.*, heard as to the Coroner's Inquest or Indictment before the Grand Jury. *Moved*, that the Coroner's Inquest be sent for in relation to Mr. Mountford's death. After debate, *Question* put, whether the Coroner shall be" (*sic*).

The Committee appointed on 20 Jan. to inspect precedents of methods to be used at the Trial (L. J., XV. 193) met on 23 Jan., E. Bridgewater in the Chair, when the proceedings at the trial of E. Strafford, 19 March 1640, and in E. Pembroke's case, beginning 1 March 1677, were read. After ordering to report, a Petition of Sir Thos. Duppa, the Black Rod, complaining that he could not have goods of the Wardrobe for furnishing the House in Westminster Hall, according to the King's warrant, was read, but nothing done on it (Com. Book).—The Report was made on 23 Jan., after which the House made several further orders (MS. Min.; L. J., XV. 196).

On 25 Jan. the MS. Min. have the following, not in L. J.—"House *moved* that the number of tickets that are to be given out for placing of Peer's wives . . (*sic*). That the Surveyor-General be heard as to the number of places. *Ordered* that the Surveyor-General attend. *Ordered* to alter the order.*

* The House on 23 Jan. had ordered that every Peer should have 8 tickets for places (L. J., XV. 196). *See also Ib.* 206.

On 26 Jan. the MS. Min. in giving the order as to Peer's eldest sons going next after the Judges to the Trial (L. J., XV. 202), add "as formerly in the Lord Stafford's trial." This seems to be a mistake for "Strafford."

The proceedings and speeches of Counsel,* &c., at the Trial in Westminster Hall are printed *in extenso* in Howell's State Trials, Vol. XII., pp. 950–1050. With regard to the proceedings in the House, the MS. Min. supply some particulars in addition to what appears in the printed journals.

31 Jan. After the Bishops had delivered their Protestation and withdrawn, it was "*Moved*, that all the Lords now present shall attend the House to-morrow, and if any Peer shall be absent to-morrow, he shall be sent to the Tower. After debate, *Question* put, whether this House shall now go on? Resolved in the *Negative*. Contents 30; Not-Contents 50. Tellers: E. Rochester and L. Willoughby Er[esby]. *Proposed* to consider what shall be done to the Lords that are now absent.† After debate, *Ordered*," &c., as in L. J., XV. 210. (MS. Min.)

1 Feb. The House having resumed, after adjourning to robe, it was "*Moved* that the Judges do not come up with the Lords again. *Moved*, to know what penalty shall be on the Lords absent at the call of the House. *Ordered* that the debate of the Lords fined for being absent yesterday be adjourned till after the Trial is over."‡ Then follows the order respecting Peers absent this day, &c., as in L. J., XV. 211. The House being then called over, all the Lords were found present who were present yesterday.§ Then the House resumed the debate as to the presence of the Judges, and they were directed to withdraw into the Court below. Then the House went into debate of L. Mohun's case. After debate, *Moved* to ask the Judges, how far an accessory without malice prepense can be distinguished from the principal of the murder? After debate, *Question* proposed:—

Where a murder has happened, whether the law requires a premeditated malice against the person murdered in all the parties concerned, to make them all guilty for the same murder? *Noted* in margin "L. C." [? Lord Chamberlain].

That in case of a murder, where persons have been present, circumstances have been such, that the accessories or persons present have not been found guilty. *Noted* in margin, L. P. [? Lord President].

The following Question to be asked the Judges in Westminster Hall, was then proposed, and after amendment agreed to,‖ viz.:— In a case where [there shall be a principal in murder], *a man shall murder another*, whether those who are in [the company of the said principal] *his company* at the time of the murder, are so necessarily involved in the said crime [with the principal], that they may not be

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* Rough notes of the speeches, corresponding, so far as they go, with what appears in Howell, are given in the MS. Min. It appears that Mr. Wallop was one of the Counsel proposed for L. Mohun instead of Mr. Price. (MS. Min., 23 Jan.)

† *i.e.* E. Faucouberg, V. Newport, L. Lovelace, and L. Leigh (L. J., XV. 210). They left the House, says Luttrell (2 Feb.), on the 31st at the trial, and went out of Court, after summing up the evidence, before it was adjourned.

‡ This Order appears in L. J., XV. 210, in the proceedings of the previous day.

§ The original entry in MS. Min., which is struck through, was "The Lord Morley being absent, Ordered that he shall be committed and pay 100*l. ut supra*."

‖ The omissions are shown by square brackets, and the additions by italics. The Question, as agreed to, is printed *in extenso* in L. J., XV. 211, and in Howell's State Trials in the proceedings of 3 Feb. (p. 1015), when it was put to the Judges.

HOUSE OF LORDS MSS.

1692–3.

separated from the crime of the said [principal] *person*, so as in some cases to be found guilty only of manslaughter. *Ordered*, &c., as in L. J., XV. 211.

3 Feb. After leave had been given, on motion, to the Judges to go to the Courts below, there being many Causes depending, "and the term near ending," the House went into debate of several Questions to be asked the Judges in Westminster Hall (L. J., XV. 211). *Moved*, that every Peer ask what question he pleases of the Judges in the Hall. *Proposed*, that every Lord shall propose the Question he intends to ask below in the House, to be agreed to, and then ask it below as his own Question. The following Questions were then proposed:—

Whether in the eye of the law the Lord Mohun was aiding and abetting in the murder of Mr. Mountford? *Noted* in margin: "E.r." [? L. Willoughby Eresby].

If a man kills another out of malice prepense, how far a man that is in his company at the time of the death is said in law to be aiding and assisting? *Noted* in margin: "L. St." [Lord Steward].

Whether a person having no express malice . . .? (*sic*). *Noted* in margin: "War." [? E. Warrington].

A, conscious of an animosity between B and C, A accompanies B in that place where B kills C. Whether A, without any premeditated malice to C, be guilty of murder? *Noted* in margin: "E. Mon." [E. Monmouth].

A, conscious of animosity between B and C, A accompanies B in a place * where C happens to come, and B kills C. Whether A, without any malice to C, or any actual hand in his death, be guilty of murder? *Noted* in margin: "E. Monmouth." *Agreed.*

If A [happens to] be in company with B, *where C happens to come*, [when] B kills C, A knowing before that B had a prepense malice against C, how far is A guilty in point of law, though without any prepense malice of his own? *Noted* in margin: "L. Steward. This Question was not put, the L. Steward desisting."†

"Whether, if A hear B threaten," etc., as in Howell, p. 1027. *Noted* in margin: "E. Scarborough." *Agreed.* *Agreed*, that these questions be proposed in the Hall by the several Lords, and the Lord High Steward to put them to their Lordships. *Agreed*, that Counsel of either side may [altered from "shall"] be heard to the Questions before the Judges answer thereunto.

The House then adjourned to Westminster Hall, and certain of the questions agreed to were asked of the Judges, &c., as in Howell (pp. 1,015 *sqq.*), and a further question, not previously agreed to, being proposed by E. Kingston, the Lords adjourned back to their House to consider it.‡ After debate, *Agreed*, that the L. High Steward tell the Court below that every Lord may ask what question he pleases, &c., as in L. J., XV. 212.

House adjourned again to Westminster Hall, and, after concluding the Questions § to the Judges, the Lords adjourned back to their House, when it was "*Proposed* to go on with the business. *Proposed* by some others to adjourn" (MS. Min.). *Ordered* as in L. J., XV. 213.

* The words ("in a place") are omitted in Howell, *ut supra*, p. 1023.

† The Question is marked "Agreed," but is struck out. The Italics and square brackets represent additions to, and omissions from, the original draft.

‡ This appears from MS. Min. and Howell. The Lords' Journal records the adjournment, but not the reason.

§ In L. Cornwallis' Question the MS. Min. read ("will make William equally guilty with Thomas") instead of ("will make William guilty with Thomas") as in Howell, p. 1042.

4 Feb. After taking the votes as to L. Mohun, the *L. High Steward* declared the Lords that found him Guilty are 14, and Not Guilty, 69. The prisoner being discharged, and the L. Steward's Commission dissolved, the Lords adjourned to their House, and remitted the fines of the four Lords absent (L. J., XV. 214), after which the MS. Min. have the following:—"*Ordered* that it be referred to the Lords following (*blank*) to inspect the entry of this trial in the Journals of this House, any three to meet on Monday next at 9 o'clock in the Prince's Lodgings, near the House of Peers.* House *Moved* in the case of the Justices that bailed the L. Mohun. 1. The Justices sent for and examined the witnesses before them. 2. They bailed for a fact found by the Coroner's inquest murder."

13 Feb. On the Previous Question, as to remitting E. Ailesbury's fine of 100*l.* for absence during the trial, there were "Contents 38; Not-Contents 21. Tellers, E. Feversham and E. Westmoreland," and on the Main Question: whether the fine shall be remitted? there were "Contents 36; Not-Contents 21. Tellers as before" (MS. Min.). For further proceedings see Notes to Annex (*f*) below.]

Annexed:—

(*a.*) 30 Jan. 1692–3. Writ of *Certiorari* to the Commissioners of Oyer and Terminer for the County of Middlesex, to remove the Indictment found before them against L. Mohun, with the Return thereof and the Record of the Indictment. *Endorsed* "Jan. 30, 1692. Brought to the Office by one Mr. Walker, Deputy to Clerk of the Peace. John Walker, Deput., Math. Johnson, Cler. Parliamentor." Printed *in extenso*, in L. J., XV. 208–9, where, however, "X*l.*" on p. 209, should be "40*l.*," and Elizabeth Walker should be described as of "Aldersgate Street." The text, as printed in Howell, pp. 955–57, contains several inaccuracies. [*See* L. J., XV. 184 and Notes above under 14 Jan.]

(*b.*) 31 Jan. Commission for the Lord President, M. Carmarthen, to be Speaker. L. J., XV. 207. *In extenso.*

(*c.*) 31 Jan. Commission for the Lord President, M. Carmarthen, to be Lord High Steward. L. J., XV. 208. *In extenso.*

(*d.*) Paper entitled "A List of the Nobility." *Endorsed:* "L. Mohun's Trial." This List contains the names of 126 Temporal Peers. 85 of these, whose names are noted in the List with a mark in ink, constituted, together with the Bishops, the House on 31 Jan. and 1 Feb. (MS. Min.; and L. J., XV. 207, 211).† The remaining 41 are set out below. There was a call of the House on 31 Jan., before adjourning to Westminster Hall, and the Lords Temporal then answering to their names, constituted the Court, which was called over on Feb. 1, 3, and 4, according to the next Paper (L. J., XV. 211, 212, 214). This Call on 31 Jan., was pursuant to an Order of 26 Jan., ordering all the Peers to be summoned to attend the trial who were "in town, or within 20 miles thereof" (*Ib.* 202).‡ The 41 Peers, above referred to,

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* No mention of this Order appears in L. J., and no proceedings are recorded in Com. Book. It was, no doubt, merely a motion.

† Two of these 85, viz., E. Sussex and L. Sidney, were found absent on 3 Feb., but excused the next day (L. J., XV. 214). The remaining 83 were those who voted at the Trial. Garter's Roll of this Session (4 Nov. 1692), gives a total of 163 Temporal Peers, including L. Mohun.

‡ No proof of being outside these limits appears to have been required from those Peers who did not answer to their names on 31 Jan.

HOUSE OF LORDS MSS.

1692–3.

of whom the 10 printed in italics * are struck out in this List, are as follows:—

D. Cumberland.	*E. Clarendon.*	L. Wharton.
D. Southampton.	E. Ailesbury.	*L. Paget.*
D. Beaufort.	E. Burlington.	L. Howard of Effingham.
D. Bolton.	E. Shaftesbury.	L. Grey de Werk.
D. Schonberg.	*E. Lichfield.*	L. Maynard.
E. Derby.	*E. Yarmouth.*	L. Coventry.
E. Rutland.	E. Berkeley.	L. Howard of Escrick.
E. Lincoln.	E. Holdernesse.	L. Byron.
E. Suffolk.	E. Torrington.	L. Ward.
E. Exeter.	V. Hereford.	L. Rockingham.
E. Leicester.	V. Saye and Sele.	L. Carteret.
E. Bristol.	V. Hatton.	L. Ossulston.
E. Berkshire.	*V. Sidney.*	L. Griffin.
E. Strafford.	L. Ferrers.	

(*e.*) 4 Feb. List of Lords voting this day at L. Mohun's trial. 14 are marked as voting G (guilty), and 69 as voting N (not guilty). The names are printed in Howell's State Trials, XII. 1048–9, where L. Eure is described as L. Evers. This List contains also the names of E. Sussex and L. Sydney, which are struck out.

(*f.*) 24 Feb. Petition of Charles, Lord Mohun. Petitioner stands acquitted by the judgment of their Lordships of the murder of William Mountford, yet one Susannah Percevall, pretending to be Mountford's widow, has procured a Writ of Appeal against Petitioner for the said murder since his acquittal, and threatens to prosecute it in the Court of King's Bench, which, as Petitioner apprehends, she purposes to do when their Lordships shall not be sitting. Prays their Lordships' directions. [Read this day, and L. Mohun's Counsel ordered to be heard on the 27th, and all the Judges to attend. (L. J., XV. 247.) On 27 Feb. this order was renewed for 3 March (*Ib.* 251). On 3 March, after reading the last order, it was *Resolved* as in L. J., XV. 273 (MS. Min.)].

659. Jan. 11. Hameldon Estate Act.—Amended Draft of an Act for settling and confirming the manors and lands in Hameldon, in the County of Rutland, as they are now enjoyed and have been for divers years last past, pursuant to an agreement for enclosing and exchanging of lands there. The Lords' Amendments (Com. Book, 20 Jan.),† are purely drafting ones. [Read 1ª this day; Royal Assent 14 March. L. J., XV. 179, 289. 4–5 W. & M. c. 40 in Long Calendar.]

Annexed:—

(*a.*) 20 Jan. Affidavit of John Inett of the consent of the Dean and Chapter of Lincoln and of the Vicar of Hameldon to the passing of the Bill. *Sworn* 18 Jan. 1692–3 before S. Keck, Master in Chancery. [Read in Committee this day. Com. Book.]

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* Seven of these ten peers had not taken the Oath, as appears from the Roll. As regards D. Southampton, D. Bolton, and V. Sidney, it does not appear why they were here struck out.

† It appears from MS. Min., that the Committee on this Bill was revived on 14 Jan., to meet on the 17th, and again on 18th Jan., to meet on the 20th. No entry of this in L. J.

(*b.*) 21 Jan. Lords' Amendments to the Bill. [Made in Committee 20 Jan., and reported this day. Com. Book; L. J., XV. 194.]

HOUSE OF LORDS MSS. 1692-3.

660. Jan. 12. Triennial Parliaments Bill [H. L.].—Amended* Draft of an Act for *the* frequent *calling and* meeting of Parliaments:—

[§ i. Whereas by virtue of divers laws and statutes, a Parliament ought to be holden at least once every year for the redress of grievances and maintenance of the laws and statutes of this realm; and forasmuch as the said laws have not in former times been duly observed; Be it therefore declared and enacted, by the King and Queen's Most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, That the said laws and statutes, *made in the reign of King Edward the Third*, for holding Parliament [at least once in every year] be from henceforth duly kept and observed.

§ ii. And be it further declared and enacted by the authority aforesaid, That a Parliament be from henceforth summoned by writs under the Great Seal of England in the usual legal form and manner, to assemble and sit at *such place as their Majesties, their heirs and successors, shall* [*think fit to*] *appoint*, upon in the month of henceforth. And be it further enacted by the authority aforesaid, That in case it shall so happen that such Writs of Summons as aforesaid shall not be issued in due time for the assembling, sitting and holding of a Parliament upon the said in the month of in from henceforth, as aforesaid, That then upon the in the month of in , the Lord Chancellor of England, or Lord Keeper of the Great Seal of England, or every Commissioner and Commissioners for the keeping of the Great Seal of England for the time being, or any other person or persons, who shall be entrusted with, or in whose custody the said Great Seal for the time being shall be, are hereby required to seal with the said Great Seal of England, issue forth and send abroad all and every the several and respective Writs of Summons, used and accustomed to be sent forth for calling of Parliaments, and in the usual legal form and manner, for the summoning and assembling of a Parliament, to be holden at Westminster in the usual place upon the in the month of next ensuing the date of the said writs; and the said Lord Chancellor, Lord Keeper, Commissioner or Commissioners of the Great Seal of England, or any other person or persons, who shall be trusted with, or in whose custody the said Great Seal for the time being shall be, are hereby empowered, required and enjoined to seal with the Great Seal of England, issue forth, and send abroad all and every the aforesaid respective writs, which shall be, and are hereby enacted and declared to be of full force and effect in the law to all intents and purposes whatsoever. And all and every the Peers of this realm, and the Knights, Citizens, Barons of Cinque Ports and Burgesses, which shall be summoned or chosen by virtue of the said Writs, shall and are hereby required to appear at Westminster upon the in the month of aforesaid, to serve in Parliament accordingly. And if the said Lord Chancellor, Lord Keeper, or Commissioner or Commissioners of the Great Seal of England, or any other person or persons, who shall be trusted with, or in whose custody the

* The omissions are shown by square brackets, and the additions by italics, the amendments being supplied from MS. Min. After being amended as marked in §§ i. and ii. the whole of this Bill, except the Title, was rejected in favour of a new one (Annex (*a*) below), drawn by Justice Rokeby for a Select Committee specially appointed.

said Great Seal for the time being shall be, shall refuse or forbear to issue forth the said writs of summons, according to the true intent and meaning of this Act, then he or they respectively shall be disabled and become and be, by virtue of this Act, incapable ipso facto, to bear, hold or execute his or their said offices respectively, or any other office or public trust whatsoever, and shall be further liable to such penalties and punishments as shall be thought fit by the next or any other ensuing Parliament to be inflicted upon him or them for a crime tending to the subversion of the whole Government. And all and every such Writs as shall be sealed and issued forth by virtue of this Act, shall be and are hereby declared and enacted to be of full force and effect in the law, to all intents and purposes whatsoever.

§ iii. And be it further enacted by the authority aforesaid, That in case any Parliament shall be from henceforth prorogued, or adjourned or continued by prorogation or adjournment unto any day after the first in the month of in , then such Parliament so prorogued or adjourned, or so continued by prorogation or adjournment, shall from the said in the said month of be thenceforth judged, deemed and taken, and is by virtue of this Act judged, deemed and taken to be legally and absolutely dissolved.]

[This Bill, which according to Ralph * was brought in by the Earl of Shrewsbury, was read 1ª this day. (L. J., XV. 181). In Committee of the Whole House the following proceedings are recorded:—

16 Jan. L. Cornwallis in the Chair. The Bill was read through. The Title and Preamble read and postponed.

First Enacting Clause read. Statutes 4 Edw. III. c. 14., 36 Edw. III. c. 10., and 16 Car. II. c. 1., read. Then this Clause and the next one were amended as shown in the text above. On considering how to fill the first blank in Clause ii., it was *Proposed* to alter the Clause: That Parliaments sit every year, a new Parliament every three years; No compulsory Clause in the Bill; A time set for the determination of this Parliament, and a Committee to draw up this Clause. *Ordered* to report accordingly. After debate, *Question* put: Whether the House shall be now resumed? Resolved in the *Affirmative*. Contents 32; Not-Contents 26. Tellers: D. Somerset and the Lord Steward.

House resumed, and L. Cornwallis reported as in L. J., XV. 185. Report agreed to, and Select Committee appointed to prepare a Clause accordingly, with the assistance of Mr. Justice Rokeby (MS. Min.).

In Select Committee on 17 Jan., *E. Stamford* in the Chair, a Clause drawn by *Mr. Justice Rokeby* was read and afterwards by paragraphs and agreed to be reported † (Com. Book).

18 Jan. *E. Stamford* reported the Clause, which was committed to a Committee of the Whole House forthwith. In C. W. H., *Bishop of Salisbury* in the Chair, the Clause was read through.

Preamble agreed to.

1st and 2nd Enacting Clauses agreed to.

The Clause for determining this Parliament. (Par. iv. of Annex (*a*) below) read. A debate was upon the time to be settled for determining this Parliament, and filling the blank. *Question* put: Whether the blank shall be filled up with ("the 1st day of January, which shall be in the year of our Lord 1693")? Resolved in the *Affirmative*. Then the Clause, as filled up with the date above, was read. *Moved* to name a Committee to word the Clause. The Clause, as worded, *agreed to*, and the last Paragraph in the Clause drawn to be inserted.

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* Hist. ii. 408. † Annex (*a*).

Then the Paragraphs in the old Bill read. The Bill read rejected. The 2nd Clause read rejected. The 3rd Clause read rejected. The Preamble read in the old Bill rejected. Title read. Amended by adding ("and to prevent the too long continuance of").* In the Title, after ("for") add ("the"), and after ("frequent") add ("calling and").

House resumed, and *Bp. of Salisbury* reported the Bill with Amendments and Provisos.† The Amendments read. Title read, and amended, and agreed to. The whole Bill read and agreed to, with an Amendment in the Preamble. Then a Paragraph agreed to the other day by the Committee was read and laid aside.‡ *Ordered* that the Bill be engrossed as amended, and read 3ª on 21 Jan. (MS. Min.; L. J., XV. 189).

20 Jan. The MS. Min. have the following entry, not in L. J.: "Agreed at 12 o'clock to read the Bill for frequent Parliaments, and the Cause to be sent out, if not over."§

21 Jan. Bill read 3ª. An Amendment made at the Table by altering ("is") to ("shall be"). Bill passed and sent to the Commons (MS. Min.; L. J., XV. 194), who amended it as stated in the Notes to Annex (*a*) below.‖ Royal Assent refused 14 March. *See* No. **736.**]

Annexed:—

(*a*.) 18 Jan. 1692–3. Amended Clause, marked ✠, as follows:—

Par. i. Whereas by the ancient laws and Statutes of this Kingdom ¶ made in the [time] *fourth and six and thirtieth years of the reign* of King Edward the Third, a Parliament ought to be holden every year; And whereas [it is the right of the subjects of this Kingdom to have] frequent *and* new Parliaments [and the having thereof tends] *tend* very much to the happy union and good agreement of the King and people; We, your Majesties' most loyal and obedient subjects, the Lords Spiritual and Temporal and Commons in this present Parliament assembled, do most humbly beseech your Most Excellent Majesties that it may be declared and enacted in this present Parliament; And it is hereby declared and enacted by the King and Queen's Most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by authority of the same, That from henceforth a Parliament shall be holden once every year at the least.

Par. ii. And be it further enacted by the authority aforesaid, That within three years ** at the furthest from and after the dissolution of this present Parliament, and so from time to time for ever hereafter, within three years ** at the furthest from and after the determination of every other Parliament, [Your Majesties, your heirs and successors, do and shall cause to be sealed and issued out] legal writs *under the Great Seal shall be issued by direc-*

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* These words are not in the Title of the Bill as read 3ª (L. J., XV. 194). They were obviously left out on Report, as explained by the expunged entry, and those following it.

† The MS. Min. have here the following words expunged: "Then the House was moved that . . .; the word above mentioned was left out."

‡ This must refer to § i. of the old Bill, amended in C. W. H. on 16 Jan.

§ *See* notes to *Englefield* v. *Englefield*, No. **628.**

‖ The Commons' Amendments, which were made in C. W. H., and reported 9 Feb., are given in C. J., X. 808.

¶ The words ("*above mentioned*") are here interlined in the same hand as the other amendments, but afterwards struck through. This amendment was the one made on Report (L. J., XV. 189).

** The Commons altered ("three years") in this Clause into ("one year"). C. J., X. 808.

HOUSE OF LORDS MSS.

1692–3.

tion of your Majesties, your heirs and successors, for calling, assembling and holding another new Parliament.

Par. iii. And be it further enacted by the authority aforesaid, That from henceforth no Parliament whatsoever, that shall at any time hereafter be called, assembled or held, shall have any continuance longer than for three years only at the furthest [from the first day of the first appointment thereof], *to be accounted from the day on which by the summons the said Parliament is* * *appointed to meet.*

Par. iv. And be it [likewise] further enacted by the authority aforesaid, That this present Parliament shall [on or before the day of next ensuing, be absolutely dissolved and determine] *cease and determine on the first day of January, which shall be in the year of our Lord* 1693,† *unless their Majesties shall think fit to dissolve it sooner.* [Reported from the Select Committee this day, and ordered to be engrossed. L. J., XV. 189.]

(*b.*) 18 Jan. Draft of concluding Clause (*i.e.* Par. iv. in last Paper) as amended. *Noted* as agreed to this day.

661. Jan. 13. Sir Edward Dering's Estate Bill.—Draft of an Act for the better enabling the Trustees and Executors of Sir Edward Dering, Bart., deceased, to sell lands by him devised for the payment of his debts. The Preamble recites that by Indenture of release, dated 8 May 1677, made between (1) Sir Edward Dering, of Surrenden Dering, co. Kent, Bart., and Dame Mary his wife, and Edward Dering, Esq., his elder son and heir-apparent, the Hon. Daniel Finch, Esq., now E. Nottingham, Sir Eliab Harvey, Knt., and Christopher Dering, Esq.; (2) Sir Nicholas Strode, Knt., Dame Katherine his wife (formerly the wife of Sir Wm. Cholmeley, Bart., deceased), and Elizabeth Cholmeley, eldest daughter of the said Sir William Cholmeley and the said Dame Katherine; and (3) Sir Hugh Cholmeley and John Savile, Esq., and the Hon. John Strode, Esq., Sir Edward Dering, in consideration of a marriage to be had between his son Edward and Elizabeth Cholmeley, and of her marriage portion of 6,000*l.*, settled the manor of Northwood Chastners in Kent to the use of himself for life, without impeachment of waste, and after his death, to the use of Dame Mary, his wife, for her jointure, and after their deaths to the use of his said son and his heirs male, remainder to the use of himself, his heirs and assigns for ever. After Sir Edward's death, his widow, on 27 May 1689, released to her said son, then Sir Edward, all her right to the premises, and accepted of a rentcharge of 70*l.* a year, chargeable on some other lands. Sir Edward the younger suffered a common recovery, and on 14 June 1689 by his will bequeathed the premises to his brother, Thomas Knatchbull, Esq., William Brockman, of Richborough, Esq., Major Ralph Buffkin and Roger Paine, Esq., of Otterden, as Trustees, to be sold for payment of his debts, the surplus to be invested in land to be settled in the same way as his capital, mansion-house, and park in the parishes of Pluckley and Little Chart, co. Kent. It appears by a Deed of 25 May 1685, that Dame Mary and her said son jointly conveyed the premises to Henry Dering for one year, to make him tenant to the *Præcipe*, in order to the suffering a common recovery, and the deed of release upon the same

* Altered by the Lords on third reading to ("*shall be*"). L. J., XV. 194.

† Altered by the Commons to ("five and twentieth day of March, which shall be in the year of our Lord 1694"). C. J., X. 808.

being lost, a scruple may be raised by such person as shall treat for the purchase of the same. The Bill therefore enacts that the premises shall be vested in the said Trustees in such manner and no otherwise than as by the will of Sir Edward Dering the younger is directed, with the usual saving. [Read 1ª this day. (L. J., XV. 151.) No further proceedings.]

Annexed:—

(*a.*) Breviate of the Bill.

662. Jan. 17. Writ of Summons (Bp. of St. Asaph).—Writ of Summons to Edward [Jones], Bishop of St. Asaph. *Dated* 16 Jan. [Took the Oaths this day. L. J., XV. 186.]

663. Jan. 17. Ashby *v.* Crawford.—Petition and Appeal of Champion Ashby, of London, Merchant. The late John Swanson in 2 Jac. II. brought a Bill in Chancery against Petitioner, a dealer to Barbadoes, to account for the profits of a cargo of stuffs and perpetuanoes, of the value of 150*l.*, bought from Swanson and shipped for Guinea on board the pink "William and Betty," under an agreement that Petitioner should pay Swanson for the goods on his return, and have half the clear profits for himself. Petitioner answered by setting forth an agreement, whereby the goods were not to be accounted for till 30 days after the pink's return, which never was, being lost or broken up at Barbadoes on her voyage back. The Master of the Rolls on 11 Feb. 1687–8 referred the account and Swanson's agreement to a Master, who reported that no certain number of bales were shipped on Plaintiff's account. Swanson dying, the cause was revived by Respondents, who put in exceptions, which were allowed on 1 July 1692 by the Lords Commissioners, and Petitioner was directed to be charged with 222*l.* 13*s.* 6*d.*, with interest and costs, having thereout an allowance for a moiety of the clear profits. The Master accordingly has reported charging Petitioner with 353*l.* 14*s.* 4*d.*, which the Court on 3 Dec. has decreed him to pay by the first day of Hilary Term. Prays that the said Orders and Decree may be reversed, and that Henry Crawford and Anne his wife, and William Meadows and Katherine his wife may be ordered to answer, and a day appointed for hearing. *Signed* by Appellant; *Countersigned* by Tho. Strode and E. Ward. L. J., XV. 186. [The Cause was heard and the Decree affirmed with 10*l.* costs on 9 March. *Serjeant Strode* (for Appellant) opened the case. *Mr. Ward* (for Appellant): We assign two causes, (1) that there is no ground of evidence to charge us, (2) that what we have sworn the Chancery has decreed against upon a believing witness. *Sir Thomas Powys* (for Respondents): We bought the goods, he to have the half of the clear profit. *Mr. Filmer* (for Respondent) is heard. *Counsel* for Appellant heard in reply. (MS. Min.; L. J., XV. 282.)]

Annexed:—

(*a.*) 7 Feb. Petition of Respondents. Appellant has brought the Appeal to avoid arrest on process and for delay. He never served the order to answer on Petitioners, who live at King's Lynn, till 23 Jan., and intends, as Respondents believe, to withdraw himself and go abroad. Pray their Lordships to dismiss the Appeal, or else order Appellant to give security, and for further time to answer. *Signed* Thos. Ange, Solicitor for Petitioners, who live at Lynn, in Norfolk. L. J., XV. 218.

(*b.*) 14 Feb. Answer of Henry Crawford and Anne his wife, and William Meadows and Katherine his wife, Administratrixes of

HOUSE OF LORDS MSS.

1692–3.

John Swanson, deceased. The Decree and subsequent Orders are founded on justice and equity. Pray that the Appeal may be dismissed with exemplary costs *Signed* by Tho. Filmer. *Endorsed* as brought in this day.

(*c.*) 1 March. Petition of Appellant for an early day for hearing. L. J., XV. 255.

664. Jan. 17. Abjuration Bill.—Draft of an Act to prevent Dangers which may happen from persons disaffected to their Majesties' Government.

For the better security of their Majesties' persons and Government, Be it enacted, &c., That every person, as well peer as commoner, who on the day of shall have, bear, or execute any office or any public employment of trust, civil or military, or shall be intituled to the profits or trust of any such office or employment within the Kingdom of England, Dominion of Wales or town of Berwick-upon-Tweed, or in their Majesties' Navy, or in the Islands of Jersey or Guernsey, or shall be of the household of their Majesties, who shall reside or be within the City of London or within the distance of thirty miles of the same at any time before the day of , shall before the end of Term take the Oath hereafter mentioned and set down in their Majesties' High Court of Chancery or Court of King's Bench, at such time and in such manner as by an Act made in the five and twentieth year of the reign of King Charles the Second, entituled An Act for preventing Dangers which may happen from Popish Recusants, is required concerning the Oaths therein mentioned and thereby appointed to be taken, and every such person, not being or residing within the said City or within thirty miles of the same, within the time aforesaid, shall on or before the day of , at the Quarter Sessions for the County or place where he shall reside or be, on the day of take the Oath herein mentioned and set down in open Court between the hours of nine and twelve in the forenoon; and that every person, who at any time after the day of , shall be admitted into, enter upon or take any such office or employment, or shall become intituled to the profits or trust of such office or employment, or shall be of the household of their Majesties as aforesaid, shall at the Term or Sessions next after such admitting, entering upon or taking such office or employment, or becoming intituled to the profits or trust thereof, or being of the household of their Majesties as aforesaid, take the oath hereafter set down in such Court, at such time and in such manner as by the said Act for preventing Dangers which may happen from Popish Recusants is required concerning the oaths therein mentioned and thereby appointed to be taken, all which shall be put upon Record in the respective Courts.

And be it further enacted, That in case any of the persons aforesaid shall neglect or refuse to take the Oath hereinafter mentioned and set down at the respective times and places and in manner aforesaid, such person so neglecting or refusing shall be and is hereby adjudged *ipso facto* incapable and disabled in law to have or enjoy any such office or employment, or any part thereof, or to have the profits or trust thereof, and every such office and employment shall be and is hereby adjudged void, and in case any such person, after neglect or refusal as aforesaid, shall execute any of the said offices or employments, or receive the profits thereof, such person, being thereof convicted, shall incur all and every the penalties, forfeitures, incapacities and disabilities mentioned in the said Act for preventing Dangers which may happen from Popish Recusants, and thereby enacted to incur upon persons executing any the

offices or employments therein mentioned after neglect or refusal to take the Oaths and Sacrament and subscribe the Declaration therein mentioned.

And be it enacted, That the Oath hereby intended and required to be taken shall be in the words following:—

I, A.B., do swear that I will be faithful and bear true allegiance to our Sovereign Lord and Lady King William and Queen Mary, and that I do not hold myself bound in any manner by any former Oath or other obligation of Allegiance to the late King James; And I do swear that I will not aid, or assist or hold any correspondence with the said late King James, in case he shall attempt to recover his pretended right to the Crown of this Realm by invading this Kingdom or otherwise, but will, to the utmost of my power, assist and defend their Majesties King William and Queen Mary, their Crown and Government, against all their enemies, and particularly against the late King James and his adherents.

[Read 1ª this day. (L. J., XV. 187.)* On 25 Jan., after the second reading, a debate arose whether the Bill shall be committed. *Question* put: Whether this Bill shall be committed? Resolved in the *Affirmative.* Contents 46 (including 8 Proxies); Not-Contents 41 (including 5 proxies). Tellers: L. Delawar and L. Berkeley. Bill committed to a Committee of the Whole House, and all the Lords summoned to attend, when the day of sitting shall be appointed. (MS. Min.; L. J., XV. 200.) No further proceedings.]

665. Jan. 17. Land Tax Act.—Amended Engrossment of Provisos (marked ✠) reported this day, for Peers assessing themselves for their offices and personal estates, and naming a Collector, C. J., X. 780 *In extenso.* The Lords' Amendment was simply to insert the date at the end. [The Bill, to which the above Provisos relate, was brought from the Commons and read 1ª on 13 Jan. (L. J., XV. 182).—On 14 Jan., immediately after the second reading of the Bill, an expunged entry in MS. Min. has, "Ordered to be committed to a Committee of the whole House [next after E. Banbury's case is over]." These last words in square brackets were first expunged, and then the whole Order was cancelled. At the end of the day's proceedings, including the Banbury claim of Peerage and L. Mohun's case, the Order then made for committing the Bill to C. W. H. appears in MS. Min. as follows, vizt.: "Ordered that the Money Bill shall be committed to a Committee of the whole House on Monday next at 9 of the clock forenoon [and that the Committee do then consider],† and that all the Lords be summoned then to attend; *and that if it be not despatched before* 12 *of the clock, the House shall leave it and proceed to the business then appointed.*‡ In C. W. H. on 16 Jan., *L. Godolphin* in the Chair, after agreeing to the Title and reading through the Bill, it was *Moved* that a Clause be added for the Peers to tax themselves for their personal estates. *Question* put: Whether there shall be a Clause prepared, to be added to this Bill, of the same nature with that in a former Poll Bill? *Agreed* to have a Clause that the Peers assess themselves for their offices and personal estate, and name a Collector of their own. House resumed, and *L. Godolphin* reported accordingly, to which the House agreed and named the Lords to be Commissioners, and ordered

* The Bill was brought in by E. Devonshire. Luttrell, 19 Jan. 1692–3.

† These words, which are not in L. J., XV. 184, are expunged in MS. Min.

‡ These words in italics are also not in L. J., XV. 184. The "business then appointed" was the second reading of the Triennial Bill (L. J., XV. 181).

HOUSE OF LORDS MSS.

1692–3.

L. Godolphin to draw the Clause against tomorrow.* (MS. Min.; L. J., XV. 185).—On 17 Jan. *L. Godolphin* reported that he had drawn the Clause, and proposed that the blank should be filled up with the ("25th of March 1693"), to which the House agreed. Bill read 3ª, the Provisos added, and Bill passed and returned to the Commons (MS. Min.; L. J., XV. 187), who, after negativing the Provisos without a division, and agreeing to the Reasons,† reported from a Select Committee, for objecting to them, resolved to desire a Conference, and ordered Sir Thomas Clarges to take the Message (C. J., X. 780).—On 18 Jan. this Message was delivered to the Lords, who, after going into C. W. H. for freedom of debate, agreed to it, and named Managers.‡ The Conference being had the same day, the L. Privy Seal reported that the Commons could not agree to the Provisos. (MS. Min.; L. J., XV. 189).—On 19 Jan., on consideration of this Report, an expedient was *proposed*, that a Conference be desired and agree and tell them at a Conference that the House cannot agree with their Reasons. *Moved*, That the House be put into a Committee for freedom of debate. The Standing Order read. House put into a Committee accordingly, and after a long time spent therein, L. Cornwallis in the Chair, the Lords went on with the former debate. *Moved* to recede for this reason, because there is more in the Proviso than was intended by this House. *Moved* to name a Committee to draw what shall be offered at a Conference with the House of Commons. *Moved* to refer it to the Committee for Privileges. After debate, *Question* put (*sic*): Whether this matter shall be referred to the Committee for Privileges? *Question* put: Whether it is the opinion of this Committee to report to the House that this matter be referred to the Committee for Privileges? Resolved in the *Negative*. Contents 36; Not-Contents 50. Tellers, E. Mulgrave§ and E. Rochester. *Moved* that the Question be put whether the House shall be removed [? moved], that it is the opinion of the Committee that the House recede from their Proviso? After debate, House resumed. *Question* put: Whether the House shall be now adjourned? Resolved in the *Negative*. Leave to Protest. *Question* put: Whether this matter shall be referred to the Committee for Privileges? Resolved in the *Negative*.‖

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* An expunged entry here adds, "Agreed to have 25 first named," after which it was at first proposed to name a Committee to draw the Clause, and then referred to L. Godolphin.

† These reasons are given *in extenso* in C. J., X. 780 and in a paper pasted into the MS. Min. of 18 Jan. opposite the entry of the Report of the Conference by the Clerk.

‡ The L. Steward was proposed as a Manager (MS. Min.). His name is not in L. J., XV. 189. Ralph has a curious statement that the Lords had no sooner sent down the Bill with the Provisos, than they went on the hearing of Lord Banbury's claim of Peerage, in order to frustrate the Commons' demand for an instant Conference, and while that business was depending, the Commons' messengers could not be admitted (ii. 398). The Conference desired was "a Conference," not a "present Conference," and there is nothing in either L. J. or C. J. to show that Sir Thomas Clarges, who had been ordered on the 17th to take the Message desiring it (C. J., X. 780), went to the Lords the same day and was not admitted; and, if so, he certainly did not mention it in his Report on the 18th (*Ib.* 782). As for the Banbury Peerage claim, the debate, etc., on the 17th had been already fixed by adjournment from the 14th (L. J., XV. 183).

§ Mulgrave supported this motion "to examine precedents" in a speech of several hours, which Burnet says was the finest he ever heard in Parliament. He adds (IV. 188) that the motion was made for delay, in the hope of putting a stop to the Bill.

‖ The Clerk had here entered the words "Cont. Not. Tellers, E. Mulgrave and E. Rochester," but afterwards expunged them, as no division took place.

Leave to Protest. *Question* put: Whether the House shall recede from the Clause in question? Resolved in the *Affirmative*. A Committee appointed to consider of what shall be offered at the Conference. (MS. Min.; L. J., XV. 190).—On 20 Jan. this Committee met, E. Rochester in the Chair, and agreed on the Reasons (Com. Book) which were reported the same day, and agreed to, after being altered.* A Message was then sent for another Conference, which was had, and the House resumed. The Lords not having insisted on their Provisos (C. J. X. 784), the Bill received the Royal Assent the same day. (MS. Min.; L. J., XV. 192.)]

666. Jan. 18. Hinde's Estate Act.—Amended draft of an Act for the vesting a Messuage and Lands in Trustees, to be sold for payment of the debts of Abraham Hinde, deceased. The Lords' Amendments (Com. Book, 28 Jan.) are purely verbal. No amendments in the Commons. [Read 1ª this day; Royal Assent 14 March. (L. J., XV. 205, 289.) 4–5 W. & M. c. 42. in Long Calendar.]

Annexed:—

(*a*.) 28 Jan. Lords' Amendments to the Bill. [Made in Committee and reported this day. Com. Book. L. J., XV. 205.]

667. Jan. 19. E. Pembroke's (Amendment of Records) Bill.—Amended† draft of an Act to set aside [several] Amendments and alterations made in the Records and Writs of a Fine and two Recoveries in the Grand Sessions held for the County of Glamorgan.

Whereas Thomas, Earl of Pembroke and Montgomery, now Lord Privy Seal, to whom divers manors and lands in the County of Glamorgan in the Principality of Wales were to descend and come as the next person in remainder in tail male after the death of Phillip, late Earl of Pembroke and Montgomery, his late brother, without issue male of his body, did, after the death of his said brother without issue male of his body, bring three several Writs of Error in the Court of King's Bench at Westminster, returnable in the term of St. Hilary in the third and fourth years of the reign of the late King James the Second, to reverse two common Recoveries suffered of the said Manors and Lands by the said Phillip, late Earl of Pembroke and Montgomery, in his lifetime at two Grand Sessions held for the said County of Glamorgan, the one of them on the 19th day of April in the 27th year of the reign of the late King Charles the Second, and the other of them on the 16th day of August then next following, and also to reverse one fine levied by the said late Earl Phillip of several of the said manors and lands at the said Grand Sessions held the said 19th day of April, [pending which said several Writs of Error great delays were made by the then Judges of the said Grand Sessions in returning the Records of the said fine and recoveries], which *said several Writs of Error*, after several rules and motions made in the said Court of King's Bench for the returning thereof, were at last in Trinity Term then next following the said term of St. Hilary, brought into the said Court of King's Bench, whereupon the said Earl, now Lord Privy Seal, assigned several Errors and alleged diminution in the original Writs, Warrants of Attorney, Writs of Summons in Ayde, Writs of Seizin and other matters, and obtained Writs of Certiorari to be directed from the said Court of King's Bench

* L. J., XV. 191. *In extenso.* The alteration, which is not recorded, appears to have been in the first paragraph. (MS. Min.)

† The additions are shown by italics, the omissions by square brackets.

to the then Judges of the said Court of the said Grand Sessions to certify the said Writs and Records; But [the late George, Lord Jefferys, Baron of Wem, being then Lord High Chancellor of England, having married his son John, now Lord Jefferys, to the Lady Charlotte Herbert, the sole daughter and heir of the said Phillip, late Earl of Pembroke, deceased, at the Grand Sessions held for the said County of Glamorgan on the 3rd day of October 1688, by the great and exorbitant power which he then assumed to himself, did influence and awe one of the then Judges of the said Grand Sessions, the other being then sick and suddenly after died, to make several amendments in the said Writs and Records, though both of the said Judges before that time had several times been moved and refused to make the said amendments, and in order thereunto did by his Counsel and Agents, which the said Lord Chancellor sent down to the said Grand Sessions for that purpose, obtain] *before any return could be obtained on the said Writs of Certiorari*, a Rule of Court *was made* at the said Grand Sessions there, being but [the said] one Judge then upon the Bench, for making several amendments in the said Records and Writs and new making [of some] *one* of the said Writs, although the said Judge then present was moved to forbear making any such Rule until the Court was full and both Judges there; By colour and pretence of which said Rule, *and by the illegal actings of the said Judge, a new Writ of Dedimus Potestatem was made and the Teste of the Original Writ of Covenant and Writ of Quod ei deforceat and the several returns of the same were altered* [several Writs and Records were new made and others amended], that no errors might appear in the said fines and recoveries when the said returns should be made on the said Writs of Certiorari into the said Court of King's Bench; after which [said new making of some of the said Writs and Records and amendments of others of them] the said Writs and Records, so amended and new made, were in Michaelmas Term in the first year of your Majesties' reign returned into your Majesties' Court of King's [and Queen's] Bench by the *then* Judges of the said Grand Sessions who succeeded [Owen Win and Thomas Geeres, Serjeants-at-law], the Judges in whose time the said Amendments and alterations were made, where the said Writs of Error are still depending undetermined by reason of the nonages of [the said] John, Lord Jefferys and the Lady Charlotte his wife, *the sole daughter and heir of Phillip, late Earl of Pembroke;* by [which said undue] means [and practices] *whereof* the said Thomas, Earl of Pembroke is deprived of all the benefit and advantage which by law he ought to have had by the said Writs of Error, in reverting of the said fine and recoveries, the errors therein by the said Amendments and alterations being all rectified and taken away; And forasmuch as [many] *some* of the said Amendments and alterations, *that is to say, the alterations of the Testes and the returns of the said Writ of Covenant and the Writs of Quod ei deforceat, on which the said recoveries were suffered, being original Writs, and also the making anew the Writ of Dedimus Potestatem for the said late Earl Phillip's making Attorneys to appear for him, and inserting therein the name of Herbert Sailadine, which was not in the former Dedimus pretended to be lost,* were illegal and not warranted by [the] law, but being made, and the said Writs and other proceedings returned as amended and new made, cannot now by any course of law in being be altered or by your said Majesties' Judges of your said Court of King's [and Queen's] Bench, who are to examine the said Errors, taken ever to have been in other manner than as they are now returned; May it therefore please your Most Excellent Majesties, at the humble suit of the said Thomas, Earl of Pembroke, That it may be enacted,

and be it enacted by, &c., That [all] the alterations and amendments [made in the said fine, recoveries, writs and other proceedings in the said Writs and other matters new made, and the returns thereof made into the said Court of King's Bench, and the said Writs of Errors, Certiorari and all proceedings thereupon] *of the Teste and returns of the said Writ of Covenant and Writs of Quod ei deforceat and the Writ of Dedimus potestatem so new made*, be and are hereby declared and adjudged null and void to all intents and purposes whatsoever, And that Vacats be severally entered on the Rolls, Writs and proceedings of the said Courts of King's Bench and Grand Sessions for the vacating and annulling the same accordingly; And be it further enacted by the authority aforesaid, That the Cursitor shall make forth other like Writs of Error of the same Teste and Return with the former, directed to the Judges of the said Grand Sessions; and the Judges of the said Grand Sessions for the time being are hereby required and authorized to return upon the said Writs of Errors [the Records, Writs, Warrants of Attorney and other proceedings before them, without any regard had to the said Amendments and alterations so made as aforesaid, as by law they ought to return the same, that so] *the said Writ of Covenant and Dedimus potestatem for taking the acknowledgment of the said fine, the said Writs of Quod ei deforceat on which the said recoveries were suffered, as the same were tested and returned before the said amendments were made, and also the said Dedimus potestatem for making the said Earl Phillip's Attorneys, as the same is entered on the Record in the said Grand Sessions, without any regard had to the said amendments or Dedimus new made, and other the said Writs, Records and proceedings before them, with such alterations and amendments as have been duly made therein, that* the said Writs of Error, so new made and to be returned into your said Majesties' said Court of King's [and Queen's] Bench may be proceeded upon, heard and determined in the said Court according to due course of law.

Provided nevertheless and it is hereby further enacted, by the authority aforesaid, That the jointure of Henrietta, now Countess Dowager of Pembroke, now wife of Timoleon Gowfier, Marquis de Thois in the Kingdom of France, limited to her or to some other person or persons in trust for her by the said Phillip, late Earl of Pembroke, her husband, in his lifetime, of the said manors and lands comprised in the said fine and recoveries, shall be and is hereby confirmed, and shall stand and be of the same force and effect as if the said fine and recoveries had been duly levied and suffered by her said husband in his lifetime. [Read 1ª this day; Notice to be given to Trustees or Guardian of L. Jeffreys and Counsel ordered. (L. J., XV. 190.) On 17 Feb. Counsel on both sides were called in. *Sir William Thompson* and *Sir Thomas Powys* were heard for L. Jeffreys against the Bill, and *Sir William Williams* and *Sir Creswell Levinz* for E. Pembroke in favour of it. *Counsel* against the Bill heard in reply. *David Thomas*, [*Reyland*] *Hughes*, and *Marmaduke Gibbs* sworn and examined. Counsel withdrew. Judges heard. *Holt, C. J.:* The question is concerning the legality of these Amendments. We desire to hear Counsel upon the points in law. *Ordered* that the Judges give their Opinions on the 21st inst. (MS. Min.).—On 21 Feb., the Order for hearing the Judges' Opinions being read, the *L. Privy Seal* moved that witnesses may be called in and examined on behalf of L. Jeffreys. *David Thomas* sworn, and being asked by L. Jeffrey's Counsel at the Bar if he knew of any *Dedimus Potestatem*, said: "I do know there was a *Dedimus* sued out for a fine." Q. Was there a *Dedimus* to the Recovery? A. I verily believe there was one. I know not what became of it. I

verily believe it was returned. It was arraigned in Court. Q. Was Herbert Salladine a Commissioner? A. I believe he was. I filled up the names. I filled up that of the fine. *Philpott* sworn. In 1683 E. Pembroke sent for the copy of a Recovery. He found out a fine and one Recovery, and there was a rasure for the *Dedimus* of the Recovery. I saw none. Herbert Salladine he saw in a rasure in the *Dedimus* for the fine, but not for the Recovery. He would have imposed the *Dedimus* for the fine upon me for the Recovery. I said I never saw the *Dedimus* for the Recovery. Anthony Guime said if I would say I saw the *Dedimus* for the Recovery, I should have 100 guineas. *William Thomas* sworn, and asked what has been told him of this? As to the reading of the *Dedimus* to him of the fine, for the *Dedimus* for the Recovery he spoke to me of it. *Reyland Hughes* sworn. I was surrogator of the fines. The Recovery was delivered to me, to enter on the Roll. I cannot say I saw the name of Herbert Salladine in the *Dedimus* for the Recovery. They withdraw. The Judges heard as follows. *Holt, C. J.:* Several errors are complained of, and are amended. The question is, whether they are amended according to law. It appears the Writ of Covenant bore date 27 Car. II. The *Dedimus* must [be] 26. If continued so, it had made a great error in the fine, and must have been reversed. I am of opinion this was not amendable. It is matter of substance, and by the Common law cannot be amended. There are two Statutes which allow amendments, that is, mistakes of the Clerk, but matter of substance or ignorance or default is not amendable. Gage's Case is reported to have been amended, because it was an amicable amendment. As to the other amendments, as names of towns, &c., they may be amended. *Treby, C. J.:* There are to be but two points. I am of the same opinion. The *L. C. Baron* not with the Judges, and gave no opinion. *Dolben, J.:* I am of the same opinion. *Nevill, J.:* I doubt in this case, and am of a different opinion. *Gregory, J., Rokeby, J., Eyres, J.*, and *Powell, B.* of the same opinion as the Chief Justices. *Judges* asked if there was any remedy but by an Act? *Holt, C. J.:* The fine being amended, there is no remedy but by Act of Parliament. Q. Suppose a purchaser had bought under this fine, [whether] it had not been a good purchase? *Holt, C. J.:* No question but all is safe, and the purchaser will be so and others, until the Legislature intercedes. The Bill was then read 2ª and committed to C. W. H. tomorrow. Petition of Serjeant Geers* read, and Counsel for Petitioner ordered to be heard before the Bill is reported. (MS. Min.; L. J., XV. 241–2.)

In C. W. H. on 22 Feb., *E. Bridgewater* in the Chair, the Bill was read through. Title and Preamble read and postponed. 1st Enacting Clause read. Judges to draw a Clause with the two Errors in it to be amended and set aside. The other Clauses in the Bill read. Judges to draw a Clause to be added to the last Clause in the Bill, as the *L. Privy Seal* offered. Preamble read, and after some amendments made in it, progress reported as in L. J., XV. 244. (MS. Min.). Later on in the day, the House went into Committee again on the Bill, *E. Bridgewater* in the Chair. The Amendments as made by the House and Judges were read and agreed to, and the Committee went through the Bill. House resumed. *Serjeant Geers* was called in and told he was at liberty to say what he pleased, not only in his own behalf, but also against the Bill. He said: As to the *Dedimus*, if it appears there was a *Dedimus*, though lost, there may be a supply. As

* Annex (*a*).

to the *Teste* of the Writ of Covenant which [is] amended, I had the concurrence of my brother Judge. As to delays, which is the first complaint, he was told the Bill was altered. In Hilary Term 1687 we were allowed Writs of Error, and we made a rule that at the next Great Sessions the Writs should be returned. The King's Bench called for the Writ of Error. I have my Brother's letter to me in this case. *Mr. Marmaduke Guime* (sworn), says he believes that to be Mr. Owen Wynn's letter read by the Clerk at the Bar. By the letter it appeared he had his Brother's consent. They withdrew. The Bill was then reported with the amendments, which were agreed to, and the Bill ordered to be engrossed. (MS. Min.; L. J., XV. 244.)—On 24 Feb. a Rider, offered by E. Pembroke, was added, on third reading,* and the Bill was sent to the Commons (MS. Min.; L. J., XV. 247), where, after hearing Counsel for E. Pembroke and L. Jeffreys and Lady Charlotte, his wife, a motion to commit the Bill was negatived on 6 March by 107 to 81, and a third reading refused without a division. (C. J., X. 844.)]

Annexed:—

(*a*.) 21 Feb. Petition of Thomas Geers, Serjeant-at-Law. Counsel for the Earl, in drawing the Bill, have made several undue reflections on Petitioner, who was then one of the Judges of the Great Sessions for Glamorganshire, with Owen Wynn, Serjeant-at-law. Petitioner proceeded in the matter before him with great integrity and impartial justice. Prays to be heard at the Bar touching the aspersions upon him. L. J., XV. 241.

(*b*.) 24 Feb. Petition of John, Lord Jeffreys and the Lady Charlotte, his wife. The Petitioner Lady Charlotte is sole daughter and heir of Philip, late Earl of Pembroke, and is legally entitled to several manors and lands in the counties of Glamorgan and Monmouth, and has no other provision made for her by her father than the inheritance of those lands, in satisfaction of 10,000*l*. portion received with her mother, now Countess Dowager of Pembroke. The said lands are charged with the jointure of the Countess and several debts of the Earl, amounting to 27,000*l*., so that Petitioners have as yet received no benefit by the estate. Lady Charlotte's father, in pursuance of articles of marriage, suffered a fine and recovery of the premises, with design to vest the estate in Petitioners, and declared the uses thereof accordingly. In the fine and recovery there were some mistakes of the clerks which it was impossible for the Earl Philip to prevent, but which have since been amended in due course of law. Petitioners have many witnesses to prove that no indirect or undue practice was used in obtaining the amendments. Petitioner's Counsel had only been heard as to the illegality of the amendments, but not to the equity of the Bill, or of the new amendments made therein. Petitioners are both of them minors, and by some doubtful words of the Bill, the Privilege always allowed by law to infants under age may be taken away or brought into dispute. The Bill tends to the disherison of Petitioners and seriously affects all settlements. Pray to be heard by Counsel against the Bill. *Endorsed* as read this day before the reading of the Bill, but nothing done on

* An expunged entry in MS. Min. of 23 Feb. states that a Petition of L. Jeffreys (Annex (*b*) below) was read that day, and is followed by another expunged entry of the third reading of the Bill.

HOUSE OF LORDS MSS.

1692–3.

it. MS. Min. No entry in L. J. as to reading of this petition on 23 Feb. See footnote to notes above.

(*c.*) Copy of the Bill with some of the amendments marked thereon.

668. Jan. 20. Ditcher *v.* Finch.—Petition and Appeal of Nicholas Ditcher and Elizabeth, his wife, Lewis Newnham, Esq., eldest son and heir, and John Newnham, second son and Executor, of John Newnham, deceased. John Finch died in 1685 seized in fee of a messuage and farm called Hamer Lands, in Sussex, leaving the Appellant Elizabeth his only child and heir-at-law, who soon after married the Appellant Ditcher. Respondent, by his guardian, then claimed the premises under a pretended Will of Elizabeth's father, but the Will was disallowed in the Spiritual Court. Thereupon, John Newnham, the father, purchased the premises of Ditcher and his wife, together with the assignment of a mortgage to one Dr. Budgin in the name of William Prior, but before he had completed the purchase, Respondent brought a Bill in Chancery against Ditcher and his wife and John Cooper, deceased, claiming under the supposed Will, which he suggested was in Elizabeth's custody after her father's death, and the Court, upon a very slight and improbable hearsay testimony, decreed him the premises without any trial by jury whether a Will or no Will. Respondent afterwards, in June 1687, brought a Bill against Ditcher and his wife, and John Newnham, the father, and Prior, his Trustee, and others, to have the mortgage assigned, and, though Newnham proved that John Finch, deceased, had cancelled his will in his lifetime, the Court decreed him a redemption of the mortgage. Ditcher and his wife are thus stripped by the first Decree of 8 June 2 Jac. II. of their freehold and Elizabeth's inheritance, and the Appellants, the Newnhams, are defeated by the second Decree, of 6 Feb. 2 W. & M., of their father's purchase, without a trial at law. Pray that the Decrees may be reversed. *Signed* by Appellants; *Countersigned* by Ambr. Phillipps. L. J., XV. 192. [The Cause was first heard on 20 Feb. *Sir Ambrose Phillipps* and *Sir William Thompson* were heard for Appellants, and *Serjeant Darnell* and *Sir Thomas Powys* for Respondent. Counsel withdrew and Speaker reported. After debate it was referred to a trial at law whether the Will in question was revoked or not. (MS. Min.; L. J., XV. 240.) The Cause was again heard, after the trial at law, on 4 Jan. 1693–4. *Mr. Conyers* (for Appellants) opens the Cause, and moves for a new trial. *Nath. Newnham* (sworn) says the land is devised to him. *David Maynard* (sworn): I heard some of the Jurymen say, as far as they had heard, the land belonged to Finch. We are ready to pay costs to go to a trial. *Serjeant Darnell* (for Respondent): This has cost us more than the estate is worth. *Sir Thomas Powys* (for Respondent): Mr. Fane said the L. Chief Justice told him, if he had been on the Jury he would have given the same verdict. Counsel withdrew and Speaker reported. Appeal dismissed with 20*l.* costs. (MS. Min.; L. J., XV. 334.)]

Annexed:—

(*a.*) 7 Feb. 1692–3. Answer of John Finch. Elizabeth's father, having all along a great kindness for Respondent, his near kinsman, and Elizabeth being infirm in body and understanding, caused Respondent to live with him, and by his Will, in Oct. 1684, devised the lands in question to him and his heirs male, on his reaching the age of 24, with divers remainders over, and left his other lands, called Little Gibbs of Ven in Sussex, and his personal estate of 500*l.* to Elizabeth, and the rents and profits of

the lands in question till Respondent reached the age of 24, he devised to Wm. Cunber, Benjamin Page and Wm. Head, his Executors. The Will was drawn by one James Fowkes, and shown to several persons after his death, but was afterwards destroyed or concealed, and Elizabeth, by the means of one Cooper, who was aiding to its suppression, married the Appellant Ditcher, who, knowing the weakness of his title, contrived to sell the lands to Newnham, the other Appellants' father. Appellants in their answer to Respondents Bill in 1685 admitted a Will, but declared the Testator had afterwards destroyed it. Respondent brought his second Bill after discovering the mortgage on the premises, and that Newnham the father was contriving with Ditcher and his wife to take it in, and purchase the lands. As to the proceedings in the Ecclesiastical Court, they were taken by another John Finch, a remainder-man, and not Respondent, who desisted therein, being informed that the Court had not the cognizance of Wills relating to lands in fee. Prays to be dismissed with costs. *Signed* by Respondent; *Countersigned* by Will. Hancock. *Endorsed* as brought in this day.

(*b.*) 9 Feb. Petition of the Appellants. Respondent has not brought in his Answer till this week, endeavouring to delay the Appeal till this Session is ended. Pray for an early day for hearing. *Signed* by Nich. Ditcher and Lewis Newnham. L. J., XV. 221.

(*c.*) 23 Feb. Petition of John Finch. Their Lordships have ordered a trial at law in Middlesex as to the validity of the Will. It will be a great charge to Respondent, who prosecuted his suit in Chancery *in formâ pauperis*, to bring his witnesses, who live in and near East Grinstead, up to London. Prays that the Issue may be tried at the next Assizes for Sussex, and settled by L. C. Justice Treby, who goes that Circuit, and that the depositions of such Witnesses as are dead, which were read in Chancery, may be admitted as evidence upon the trial. *Endorsed:* Consent to alter the Order of 20th inst. [The MS. Min. of this day have an entry (not in L. J.) that the order of 20 Feb. was altered, by consent, as prayed.]

(*c*[1].) Consent of Lewis Newnham to the trial being had in Sussex at the next Summer Assizes. *Dated* 23 Feb. 1692–3. *Addressed* to Mr. James Allen. [Appended to preceding.]

(*d.*) 17 Nov. 1695. Petition of John Finch. Pursuant to their Lordships' Order annexed, a trial has been had at the Sussex Assizes in a feigned Issue before L. C. Justice Treby, and a verdict found that the Will in question was not revoked. Prays their Lordships to resume the debate of the Cause and appoint a day for the rehearing. L. J., XV. 300.

(*d*[1].) Copy Order of the House of 20 Feb. 1692–3. L. J., XV. 240. *In extenso.* [Appended to preceding.]

(*e.*) 28 Nov. 1693. Petition of John Finch. Their Lordships having ordered the Appellants to put in their Answers to Respondents' Petition of the 17th inst., Respondent has left copies of the Order at their dwelling-houses with their respective wives, having been unable to serve them personally. Prays that a further day may be appointed for the Appellants to answer, and that leaving a copy of the Order with the Clerk in Chancery who acts for them may be deemed good service. L. J., XV. 308.

(*f.*) 4 Dec. 1693. Answer of Appellants to Respondents' Petition of 17. Nov. The original panel of the jury for the trial at the

Assizes was altered, as Appellants were informed by the Under-Sheriff, and a new one made, containing some who were neighbours and acquaintances of Respondent. Full proof was given that the Testator himself had cancelled and burnt his Will. Appellants had not sufficient notice of the new panel to enable them to take exception by challenge. Pray their Lordships to order a new trial. *Signed* by Appellants, except Elizabeth Ditcher. *Endorsed* as brought in this day.

(*g*.) 5 Dec. 1693. Petition of John Finch. Prays for an early day for hearing, the Appellants having answered. L. J., XV. 314.

(*g*[1].) Copy Order of the House of 28 Nov. 1693. L. J., XV. 308. *In extenso.* [Appended to preceding.]

669. Jan. 23. Gardner *v.* Royal African Company.—Petition and Appeal of John Gardner, Merchant, and Dame Letitia Bawdon, Widow and Executrix of Sir John Bawdon, deceased. The Appellant Gardner and the Testator Sir John Bawdon, being interested in several Plantations in the West Indies, sent several ships to the coast of Africa to trade there and take in the necessary negroes. The Company's Agents there, pretending that the Company had the sole trade, seized their ships and goods, and refused to let them trade for negroes, unless they paid 30 and 40 per cent. for permission money, and took a licence from the Company to trade in Africa, to be granted only on condition that they should take the Company's goods here at such rates as should be imposed. Gardner and Sir John were forced to submit, and accordingly in June 1688 took a cargo of goods from the Company to trade with to Africa for negroes in the ship *John*, for which the Company demanded 425*l*. permission money, and obliged them to enter into a bond with sureties of 3,000*l*. for payment of 1,504*l*. 6*s*. 7*d*., including the permission money. The Company, better to colour their designs, take Charter-parties from the persons to whom they give licence, and insert what facts they think fit, and have also exacted other sums for permission to trade. Sir John having died, Appellants brought a Bill in the Exchequer for a discovery and account of the ships and goods seized, and particularly of the ship whereof George Nanter was master, and for relief against the bond and an account of the permission money; but the Court on 7 May 1692 allowed the plea of the Statute of Limitations as to the seizure, although the matters in demand were transacted beyond seas, and were matters of account between merchants, and as to the rest, on 24 Nov. 1692, refused to interfere with the permission money, and decreed Appellants to account for the whole sum. Appeal from the said Orders and Decree. *Signed* by Appellants; *Countersigned* by Wi. Williams and Sam. Dodd. L. J., XV. 195. [The Cause was heard on 15 Feb. The Appellant, *Mr. Gardner*, heard in person. *The Solicitor General* (for Respondents) is heard. *Mr. Ward* (for Respondents): There is nothing in the Appeal, and we hope to have costs. I would have Mr. Gardner speak one word why he should not pay the money. He consented to everything himself. *Mr. Gardner* heard in reply, and reads. *The Solicitor-General* heard also. *Mr. Ward:* The Company is at 15 per cent. charge, and they delay us. *Mr. Gardner* is asked whether he appears for the Lady Bawdon, and he says, Yes, and that she and he are partners, and [she] will be concluded by him. Mr. Gardner and Counsel withdrew, and Speaker reported. Decree affirmed. (MS. Min.; L. J., XV. 231.)]

Annexed:—

(*a*.) 1 Feb. Answer of the Royal African Company of England. In 1688 the Company made an agreement with Gardner

and Sir John Bawdon touching the ship *John*, of London, whereof William Portlock was Master, for a trading voyage to Africa, and an account was adjusted, before the ship left Gravesend, concerning the cargo bought of the Company, amounting to 1,504*l.* 16*s.* 7*d.*, for payment whereof in 18 months Gardner, Sir John and Portlock gave a bond of 3,008*l.* 13*s.* 0*d.* Only 500*l.* has since been paid, and that not before August 1690. Sir John having died, and Appellants refusing to pay the rest, Respondents sued Gardner upon the bond, and obtained judgment. Appellants then brought their Bill in the Exchequer. The Court, after allowing Respondents' plea of the Statute of Limitations with regard to the ship whereof Nanter was master, proceeded to hear the Cause on 13 June, and referred it to the Deputy Remembrancer to certify what was due upon the bond, and to take a distinct account of the elephants' teeth and gold laden on the ship *Swan*. The Report, being heard, was ordered to be reviewed by allowing Appellants their share in some gold, which was the produce of part of the windward cargo of the *Swan* outwards, and saving Respondents harmless against the other owners and partners of the ship in that respect. The Deputy Remembrancer accordingly certified 777*l.* 6*s.* 6*d.* due to Respondents, and the Court on 24 Nov. confirmed his Report and ordered payment. The Orders and Decree are just and equitable. Pray that the Appeal may be dismissed with costs. *Sealed* with the Company's seal. *Endorsed* as brought in this day.

670. Jan. 23. Kelynge *v.* Sandy.—Petition and Appeal of Charles Kelynge, Gent. Appellant, having served 7 years as a Clerk under one of the Six Clerks in Chancery, and thereby qualified himself for a seat as Sworn Clerk, made an agreement in May 1691 with John Rayner, a Sworn Clerk in the division of Shem Bridges, one of the Six Clerks, whereby Rayner undertook, on payment of 200*l.* and 20 guineas, to resign and procure the place for him. Respondent, having notice of this, told Appellant that he and Rayner were bound in two bonds for payment of 50*l.* each to one Sparrow and one Shalmer, of which Rayner's share was 42*l.*, and desired Appellant to help him to the said money, and Rayner, being informed of this, agreed that Appellant should pay the 42*l.* to Matthew Hall, another Clerk in the office. On Rayner coming to an account with Bridges as to office fees, it appeared that Rayner owed more than the purchase money amounted to, and Bridges refused to admit Appellant unless all the purchase money were paid him, whereupon Rayner, by a note acknowledging the receipt of 100*l.* from Appellant, directed him to pay the balance to Bridges, and acquitted him, on payment, of all demands. Appellant informed Respondent of this countermand and also of the time appointed for his being sworn, but Respondent did not attend to object, and Appellant on 13 June was accordingly sworn in and admitted, and paid the balance to Bridges, who thereupon cancelled the agreement and note. Respondent then brought a Bill in Chancery against Appellant, Hall, Rayner, Sparrow and Shalmer, suggesting that Appellant was in the nature of a trustee for him as to the 42*l.*, and ought not to have paid all the money to Rayner and Bridges. The Lords Commissioners on 14 June declared that Appellant, by consenting to the cancelling of the agreement, had disabled Respondent from having any benefit of it, and thereby committed a breach of trust, and ordered him to pay 41*l.* 10*s.* 0*d.* to Hall, to be disposed of according to the agreement, together with interest and 5*l.* in lieu of costs, adding that whatever Appellant paid, should be repaid him by

HOUSE OF LORDS MSS. 1692-3.

Bridges. Prays that this Order may be reversed. *Signed* by Appellant *Countersigned* by Wm. Whitelocke and Tho. Lynge. L. J., XV. 195. [The Cause was heard on 21 Feb. *Sir Francis Winnington* and *Sir Thomas Powys* were heard for Appellant. *Mr. Ward* (for Respondent): He comes here against his own express consent and a common equitable case. Counsel withdrew and Speaker reported. Decree affirmed. (MS. Min.; L. J., XV. 241.)]

Annexed:—

(*a.*) 2 Feb. Answer of Roger Sandy. Rayner agreed that his seat should stand charged with the 42*l.*, and desired Respondent to find a purchaser, whereupon Respondent acquainted Appellant, who promised not to treat with Rayner till the debt was secured out of the purchase money. The Agreement of May 1691, which was drawn by Respondent, and approved by the parties, stipulated that Appellant should pay to Hall out of the 221*l.* 10*s.* purchase money, 41*l.* 10*s.* for the use of Sparrow and Shalmer. A question arising whether Appellant or Hall would be safe in applying the 41*l.* 10*s.* according to the Articles, after the same were delivered up and cancelled, it was agreed and endorsed on the part of the Articles executed by Rayner, that after his surrender of the seat, Appellant should still retain that part of the Articles in his custody and not deliver it up. Respondent knows of no Articles between Rayner and Appellant whereby all the purchase money was to be paid to Rayner or his order, nor of any Articles other than those mentioned. It was at Appellant's own request that Respondent did not oppose his being sworn. Appellant's alleged debt to Bridges is put forward to give colour to the fraud, for Appellant, though entrusted by Respondent with the custody of the Articles, gave them to Bridges to destroy, with a view of preventing the other demands. Denies that Appellant ever told him that Rayner had directed him to pay any of the purchase money to Bridges or otherwise than according to the Articles, till after Appellant was sworn, or that he ever gave him notice to oppose his being sworn. Prays that the Appeal may be dismissed with costs as vexatious *Signed* by Respondent. *Countersigned* P. Crawford. *Endorsed* as brought in this day.

671. Jan. 24. Bishop of Bangor's Act.—Draft of an Act to enable Humphrey Lord Bishop of Bangor to make a lease of Bangor House with the appurtenances in the parish of St. Andrews, Holborn, London, for a competent term of years, in order to the new building and improving the Rent thereof for the benefit of his successors. No amendment in either House. [Read 1ª this day; Royal Assent 28 Feb. (L. J., XV. 198, 289). 4–5 W. and M. c. 32 in Long Calendar. Com. Book, 27 Jan.*]

672. Jan. 24. Sir S. Husbands *v.* Bigg.—Petition and Appeal of Sir Samuel Husbands, Knt. Respondent on 7 Nov. 1685 agreed with Appellant, the owner of a brickfield at Shalford, in Essex, to make and burn 500,000 bricks every year for three summers then ensuing, if the season should permit, at the following rates for every 100,000, viz., for digging and casting earth 5*l.*; for moulding 12*l.* 10*s.* 0*d.*, and for setting and burning 7*l.* 10*s.* 0*d.*, being in the whole 25*l.* for finishing

* An entry in MS. Min. of 27 Jan. has: "Committee on Bangor House to sit this afternoon," The Bill had been referred on the 26th to the Committee on the Petworth Bill (L. J., XV, 202), which reported earlier this day (*Ib.* 204).

and burning. Appellant covenanted to find all tools and materials, and to enclose and fence the earth, and to pay Respondent at the above rates when enough earth was dug to make 50,000 bricks, and so for every 50,000 as the said works of casting, moulding and burning should be done, and paid 5*l.* upon the first entrance upon the work. At Respondent's request, this agreement was cancelled and a new one made, whereby Appellant was to pay 8*s.* per 1,000 bricks for making and burning, allowing 1*s.* per 1,000 for the earth, Respondent finding all materials, and if Appellant should advance or lay out money towards finding materials, Respondent was to deduct the same out of the 8*s.* per 1,000. Appellant accordingly paid to Respondent and disbursed by his direction several sums towards the work and materials, but being informed that Respondent's workmen did not do their work well, he stayed his hand from paying all that was demanded, and in Dec. 1687 came to an account with Respondent, under the second agreement, and on the latter affirming that he had made and burnt 400,000 bricks (most of which then stood in clamps untold), and that they were good and merchantable, agreed to pay him 25*l.* 19*s.* 0*d.*, and paid him 10*l.* on account. Appellant, finding afterwards that the bricks were brittle and useless, owing to the carelessness of the workmen, and that there were at least 60,000 short of the 400,000 claimed, refused to pay the 15*l.* 19*s.* 0*d* balance. Respondent then brought a Bill in Chancery, suggesting that he had carried on the work under the first agreement, but taking no notice of the second one, and stating that, although enough brick earth had been dug to make the 500,000 bricks, he had been prevented from making more than 360,000 and burning more than 340,000, by the want of the materials, which Appellant had undertaken to supply, whereby his workmen had been kept idle for at least 60 days. The Court decreed that the second agreement should be set aside, and the Master, who was ordered to take an account, reported 85*l.* due to Respondent for making and burning 240,000 bricks, and 3*l.* 10*s.* 0*d.* for digging and moulding 20,000 more that were not burnt, and for digging up earth for 140,000 more, and also 36*l.* for the pretence of the men's lying idle, and 5*l.* 10*s.* 0*d.* more gain that Respondent might have had, if he had had sufficient materials for the whole 500,000, thus making Appellant a debtor in the sum of 151*l.* 6*s.* 0*d.*, not including 148*l.* and upwards paid for materials. Prays that the Decree may be reversed, the matter being one purely of damages and only to be ascertained by a jury. *Signed* by Appellant; *Countersigned* by Will. Killingworld and R. Thornhill. L. J., XV. 198. [The Cause was heard on 23 Feb., the *Solicitor-General* and *Mr. Ward* being heard for Appellant, and *Sir Thomas Powys* and *Mr. Filmer* for Respondent. Decree affirmed with 40*l.* costs. (MS. Min.; L. J., XV. 245.)]

Annexed:—

(*a.*) 3 Feb. Answer of William Bigg. The second agreement was obtained by fraud, in order to elude the first one. Prays that the Appeal, which is vexatious, may be dismissed with exemplary costs. *Signed* by Respondent; *Countersigned* Tho. Filmer, whose signature is copied. *Endorsed* as brought in this day.

673. Jan. 24. Marston *v.* Marston.—Petition and Appeal of William Marston. Appellant's youngest brother, the Respondent Joseph, brought a Bill in the Exchequer against him in 1691 for a legacy of 12*l.* a year for life and another of 230*l.*, which he alleged had been charged by their father Joseph on his lands in Marston Moretaine,

HOUSE OF LORDS MSS. 1692–3.

which he left to Appellant, his eldest son. Appellant brought a Cross-Bill against Joseph Marston and William Bristow, insisting that his father was only seized of the premises in right of his wife and could not charge them with the legacies, and claiming to enjoy them as his mother's eldest son and heir. The Respondent Joseph, in his answer to the Cross-Bill, alleged that his parents in 1677 levied a fine to Bristow to the use of the father and his heirs, with a power of revocation to the survivor, and that the father survived and by his will gave Joseph the said legacies and all his estate in Ayott St. Lawrence; that he proved the will and possessed himself of all his father's estate, but never had the custody of the deed of uses. Bristow answered that Joseph and one Mr. Sykes told him in 1686 or 1687 that he was a Trustee, and that the deed was cancelled, and offered to deliver it to him, but he refused to take it unless it were sealed again, and did not have it until it was defaced and endorsed. The Court on 22 June 1692, on hearing the original Cause, ordered Appellant to pay Joseph the legacies, with arrears and interest, reported by the Deputy Remembrancer to amount to 258*l.* 16*s.* 0*d.*, which report was confirmed on 7 Nov., when the Court decreed that, on default of payment, Joseph should have possession until the sum decreed was paid, and afterwards hold so much of the estate as should satisfy the legacy of 12*l.* a year. The Cross-Bill was dismissed the same day. This Decree is erroneous, because (1) it is not stated where the lands are, which are intended to be charged; (2) the Original and Cross-Bills should have been heard together, in which case it would have appeared that the lands were the inheritance of the mother, and that the deed is cancelled; (3) it was not proved that the lands were the inheritance of the father; (4) the Decree upon the Report charges the premises with the legacies, which is not prayed in Joseph's bill nor so decreed upon the hearing; (5) if the legacy ought to be paid, Appellant by the will has an election to pay the 230*l.* either to Joseph or his heir male, and Joseph has a plain remedy for the lands at law, where the validity of the deed would properly be tried, which is the great question in the case; (6) the 230*l.* are decreed with interest, to which he is not entitled by the Will; (7) there are several other legacies charged by the Will upon the premises, as Joseph has confessed, and the premises are worth only 25*l.* a year, or less than Joseph's legacy alone amounts to. Prays that the Decree and dismission may be reversed, and Respondents ordered to answer. *Signed* by Appellant; *Countersigned* by John Charlett and John Smith. L. J., XV. 198. [The Cause was heard on 25 Feb., the *Solicitor-General* and *Sir Thomas Powys* being heard for Appellant, and *Mr. Ward* and *Mr. Dodd* for Respondent. Decrees affirmed with 20*l.* costs. (MS. Min.; L. J., XV. 249.)]

Annexed:—

(*a.*) 6 Feb. Petition of Joseph Marston for further time to answer. L. J., XV. 217.

(*b.*) 10 Feb. Answer of Joseph Marston. The legacies to Respondent were all the provision made for him by his father's Will. The estate is of great yearly value. The first decree was made on 30 May 1692. Prays that the Appeal may be dismissed with full costs, as vexatious. *Signed* by Respondent. *Endorsed* as brought in this day.

(*c.*) 10 Feb. Answer of William Bristowe. Respondent has in his custody the deed of 1 March 1677, endorsed, which, as trustee, he offered to dispose as the Court should direct, and which he is ready to produce. The Deed relates to a messuage and lands in Marston Moretaine and Littleington, co. Bedford. Prays to have

his costs for this unreasonable trouble. *Signed* by Respondent. *Endorsed* as brought in this day.

(*d.*) 14 Feb. Petition of Appellant for an early day for hearing, and for leave to Mr. Robert Meade to enter into security on his behalf, as Appellant lives at some distance from London. L. J., XV. 228.

674. Jan. 25. Writ of Summons (E. Lincoln).—Writ of Summons to Francis, Earl of Lincoln. *Dated* 18 Jan. [Delivered and read this day (L. J., XV. 200, *in extenso*), and Standing Order read, that those Lords who come to take the Oaths ought to attend at the first sitting of the House. The Earl having withdrawn, it was referred to the Committee for Privileges to inspect the Patent and Pedigree, and the Earl was ordered not to take the Oaths till their Report. (L. J., *ib.*) In Committee for Privileges on 26 Jan., E. Rochester in the Chair, *the Heralds* being called in, and asked if they had brought E. Lincoln's pedigree, said: We find 11 Eliz. created E. Lincoln. 1631 a Visitation taken. We find Edward, Lord Clinton had issue. Francis Clinton, son of Sir Edward Clinton, he was of Sturton. This Francis Clinton is the father of this man. There were no children in 1634. *Ordered*, that the Heralds draw an abstract of this gentleman's pedigree. *Ordered* to report the Pedigree. (Priv. Book.) On Report from the Committee on 27 Jan. that the Pedigree was clear (L. J., XV. 203, *in extenso*), the Earl was called in and took the Oaths. (L. J., *ib.*)]

Annexed:—

(*a.*) 27 Jan. Pedigree of Francis, Earl of Lincoln. [Reported this day from the Committee for Privileges. L. J., XV. 203, *in extenso.*]

(a^1.) 27 Jan. Table of Pedigree. [Appended to preceding.]

675. Jan. 26. E. Sussex's Estate Bill.—Draft of an Act to enable the Right Honourable Thomas, Earl of Sussex, to sell part of his manors, lands, tenements and hereditaments of inheritance, and to settle other part thereof upon the Right Honourable the Countess Anne, his wife, for her jointure. Whereas Thomas, E. Sussex in his minority agreed, in consideration of 20,000*l.* promised him by Charles II. as portion of the Lady Anne, his wife, to settle his estates in Sussex and Kent upon her for life for her jointure, and upon his issue male by her, and in default of such issue, for raising portions for their daughters; and in regard part of those estates was then in jointure to his mother, the late Countess of Sheppey, and his grandmother, Dorothy, Lady Dacre, yet living, his other estates of inheritance in the counties of Cumberland, Westmoreland, Cambridge and Lincoln were agreed by him to be settled by way of supplement until the said jointures should determine; and Whereas no part of the 20,000*l.* has been paid, nor is likely to be paid, to him, but, nevertheless, some doubt is made whether he can dispose of, or charge the premises without being subject to the agreement, whereby he is disabled to raise money for the discharge of his debts, amounting to about 20,000*l.*, partly contracted by his late father Francis, Lord Dacre, and partly occasioned by the great expense he has been put to by his marriage with the said Lady Anne; the Bill therefore, on the Earl's Petition, enacts that the manors of Hurstmonceux, Old Court, Gothams, Buckholt and Ingrams, and all other his estates of inheritance in Sussex, shall from 2 Jan. 1692 be vested in him in fee simple, freed of the said agreement; And that the manors or lordships of Chepsted, Chevening and Brasted, parcel of the premises in Kent wherein Dorothy, Lady Dacre has a life estate for her jointure, be likewise vested in him

HOUSE OF LORDS MSS.

1692-3.

in fee simple; And that the manors or lordships of Cudham and Appersfeild *alias* Appulderfeild, in Kent, and the castles and manors of Dacre and Kirkeoswold, and the manors or lordships of Blackall, Sowelby, Staffall, Mosedale, Lassenby *alias* Lazenby, Glassonby, Brackenthwaite and New Biggin in Gillesland, in the county of Cumberland, and also the manors or lordships of Barton, Mertendale and Paterdale, in the county of Westmoreland, and all other the Earl's estates of inheritance in the counties of Kent, Cumberland or Westmoreland, amounting in the whole to 1,200*l.* a year, shall be freed from the agreement and from 2 Jan. 1692 vested in him for life, without impeachment of waste, and after his death, in Lady Anne for her jointure, in lieu and bar of her dower, and after her death, in the Right Hon. George, Lord Viscount Grandison, Sir John Baber, Knt., William Campion, of Cumwell, co. Kent, Esq., and John Nicoll, of the Inner Temple, London, Esq., for 200 years, without impeachment of waste, upon trust to raise 10,000*l.*, by sale or mortgage, for the portions of Lady Barbara and Lady Anne (at present the only children of the Earl and Countess) and of any other daughters and younger sons of theirs, in such proportions as the Earl shall appoint, and failing such appointment, to be paid to such daughters and sons share and share alike, such shares to be paid to the sons at the age of 21, and to the daughters at the age of 21 or at marriage; and upon further trust to pay them, after their parents' death, such yearly maintenance as shall seem meet, not exceeding 5 per cent. interest of their respective shares; and after the said term of 200 years the premises shall be vested in the Earl, his heirs and assigns of an estate of inheritance, in fee simple. If any of the children die before their shares become payable, such shares shall go to the survivors equally; and if all of them shall die before any of the shares become payable, their portions shall cease and not be raised for the benefit of those who are next in reversion or remainder. No sale or mortgage shall be made until some or one of the portions shall become payable. When the portions and maintenance shall be paid, or in case all the children shall die before any of their portions shall become payable, the said term of 200 years shall cease and be void. If the Earl shall give or leave to any of his children any money or lands for their advancement, the same shall be accounted as part of their shares, unless the Earl shall declare the contrary in writing. The Bill concludes with the usual Saving Clause. [Read 1ª this day; Parties to have notice, and Bill to be read 2ª on 16 Feb. (L. J., XV. 201.) No further proceedings.]

676. Jan. 27. Petworth (North Chappell, &c.) Act.—Consent of parishioners of Petworth, in Vestry assembled, to the passing of the Bill "for dividing the Chapelries of North Chappell and Dungton from the parish of Petworth, and erecting them into new parishes; and for settling the Advowsons and rights of Patronage of the Rectories of Petworth, North Chappell, Dungton, Clewer, Farnham Royall, Worplesdon, Kirby Overblowes, and Catton, and the Vicarage of Long Horsley," so far as the Bill relates to the proposed new parish of Dungton. *Signed* by John Cook, Will. Peachey, Henry Barnard, John Dee, Hen. Bulstrode, Francis Mose, Humph. Tewkes, Rich. Stills, Francis Mose, junr., Walter Elphicke, Tho. Moody, Jonathan Harris, Thomas Coward, Jeffery Dawtrey, Richard Taylor, Richard Browne, George Finch, William Kelmes (by his mark), Thomas Smart, Peter Valler, James Dawtrey, James Smart, Thomas Hughes, Henry Damer, and John Atkinson. *Dated* 6 Nov. 1692. *Endorsed* Duke of Somerset. [Read in Committee this day. (Com. Book.) The Bill was brought

from the Commons and read 1ª on 24 Jan.; Royal Assent 14 March. (L. J., XV. 198, 289.) 4–5 W. & M. c. 22. in Long Calendar.]

Annexed:—

(*a.*) 27 Jan. Consent of parishioners of North Chappell, so far as regards the proposed new parish of North Chappell. *Signed* by Humph. Tewkes, Richard Stent, James Collens, William Brockhurst, William Roadaway (by his mark), Jonas Chitty, John Bridger, Anthony Boxall, and Henry Streate (both by their marks), John Sadler, John Brockhurst, Thomas North, John Baker, Mathew Tayler, Edward Brockhurst, and Richard Baker. *Undated.* [Read in Committee this day. (Com. Book.)]

(*b.*) 27 Jan. Consent of Provost and Fellows of Eton College to the passing of the Bill. *Signed* by Zach. Cradock, Præpos., and H. Godolphin, Steph. Upman, John Hawtrey, Tho. Horne, Tho. Richardson, Edm. Whitfeild, and Wm. Fleetwood. *Dated* 23 Dec. 1692. [Read in Committee this day. (Com. Book.)]

677. Jan 27. Stydolfe *v.* Hull and others.—Petition and Appeal of Sigismund Stydolfe. In 1678 Petitioner brought a Bill in Chancery against the Executors of Thomas Bostock, Scrivener, during the minority of his children William and Mary, and against the said children and others for an account of profits received by Thomas of certain trust lands of Petitioner's under a settlement made by Petitioner's father, and for an account of the personal estate of Petitioner's father come to Thomas' hands. On 28 July, 31 Car. II., the Lord Chancellor Finch decreed an account, but before it was taken, Thomas' son and heir William died, leaving his cousin Thomas Bostock, Gent., his executor, and the Cause being revived against him, the Master on 31 May 1682 reported 2,176*l.* 1*s.* 8*d.* due to Petitioner. This Decree was confirmed on a rehearing by the Lord Keeper North on 11 Dec., 35 Car. II., but before the money was paid, Thomas the executor died, leaving the Respondent Hull's wife his executrix, and charging all his so-called estate (which really belonged to Thomas the scrivener), after payment of 200*l.* a year to his wife, with payment of his debts, the overplus to go to Respondent Langhorne and his wife. The Cause being revived against all the Defendants, the Master reported 2,416*l.* 18*s.* 0*d.* due to Petitioner, which Report was afterwards confirmed. Petitioner in 1687 brought another Bill in Chancery against Hull and his wife and executrix, Langhorne and his wife, the executors of Thomas Bostock, the scrivener, and Francis Leigh, Gent., who claimed 500*l.* East India Stock, part of Thomas the scrivener's estate, by an alleged assignment from Thomas Bostock, Gent., reciting that William and Thomas Bostock, Gent., had wasted Thomas the scrivener's estate to the value of above 20,000*l.*, and that the estate charged with the debts of Thomas Bostock, Gent., was descended to Langhorne, and praying satisfaction of his debts out of the estate of the said Thomas, and to be relieved against the assignment. The executors of Thomas Bostock, Gent., likewise brought another Bill against Leigh and others for relief against the assignment. These two Causes being heard on 20 July 1688,* the Lord Chancellor Jeffreys declared that Thomas Bostock, Gent., having wasted the estate to more than the value of Petitioner's debt, and having subjected his estate for payment of his debts, had made Petitioner's debt his own debt, and decreed Hull and his wife to account for the personal estate, and Lang-

* In Annex (*b*) the date is given, over an erasure, as 20 July 1689.

HOUSE OF LORDS MSS.

1692–3.

horne and his wife to account for the real estate of Thomas Bostock, Gent., since his death, the real estate to be sold, to pay Petitioner's debt, and the overplus to be paid to Langhorne, the heir-at-law. In the Cause wherein Hull and his wife were Plaintiffs, the Court declared the assignment good, and dismissed the Bill. This dismission was confirmed, on a rehearing, by the Lords Commissioners Keck and Rawlinson on 3 April 1690, and Petitioner moved the present Lords Commissioners to have the lands sold pursuant to the decree. Their Lordships, however, upon Langhorne's Petition, granted a rehearing of Petitioner's cause, and on 2 March 1690–1 declared that the real estate ought not to be liable to any more than what the personal estate would fall short to answer of what Thomas Bostock, Gent., had wasted of Thomas, the scrivener's, estate, and decreed an account of the personal estate in Hull's hands, and also that Leigh should account for the East India Stock which he had received by virtue of his said Decrees, and discharged all orders for staying the rents of the real estate in the tenants' hands. Prays that this last Decree may be reversed, and the real estate forthwith sold according to the Decree of 20 July 1688 and the money applied to pay Petitioner's debt, and that Thomas Hull and his wife, Luke Langhorne and his wife, and Francis Leigh may be ordered to answer. *Signed* by Appellant; *Countersigned* by J. Somers and Tho. Filmer. L. J., XV. 204. [The Cause was heard on 23 Feb.* *Sir William Whitelocke* (for Appellant) opened the case. *Mr. Finch* (for Appellant): They order Stydolfe to go against Leigh, whom the Court has found not liable. We have a demand against them all. That we should go about is hard on us. Upon this rehearing, notwithstanding the dismission, you shall try what you can do with Leigh. (The Will of Thos. Bostock, Gent., is read.) We can find no assets for our money. *The Solicitor-General* (for Langhorne and his wife) is heard. *Sir Thomas Powys:* This is a most just and righteous decree. *Mr. Finch* reads the Decree. *Mr. Ward* (for Mr. Leigh): We ought to stand as we are, and not to be prejudiced by Mr. Stydolfe. We ought not to be drawn into this account. We are drawn in here to pay Bostock's debts. He was told he was not before the Court, except they are Appellants. Counsel withdrew upon this point, whether Leigh can be heard. *Agreed* that Leigh's Counsel be not heard. Speaker reported. Decree reversed. (MS. Min.; L. J., XV. 246.)]

Annexed:—

(*a.*) 6 Feb. Answer of Luke Langhorne and Susanna, his wife. Thomas the executor manifestly conceived he had sufficient personal estate to answer his debts, for he left 500*l.* to the Respondent Susan out of it, and willed that if his personal estate were not sufficient, the lease held of the Salters' Company should be last sold. But inasmuch as he only subjected his estate to the payment of his own debts, and Appellant's demand was a debt due from Thomas, the scrivener, his real estate, which has come to the Respondent Luke in right of his wife, the sister and heir-at-law of Thomas Bostock, Gent., ought not to be liable, or at least not beyond answering such waste as the personal estate does not suffice to answer, as to which waste no proof has been given. Neither the alleged assignment to Leigh, nor any consideration for the same was ever proved, and it was therefore in trust, nor in the other Cause, wherein Hull and

* Pursuant to order of 18 Jan. (L. J., XVIII. 236). The MS. Min. of 18 Jan. have an entry appointing the Cause for "the 22nd, at 8 o'clock."

his wife were Plaintiffs, did the Court ever declare the assignment good against Respondents, who were no parties to the suit. By the Master's report on 4 Dec. 1691 there remained in Leigh's hands no less than 1,283*l.* 8*s.* 3*d.*, above payment of the debt and interest, being a surplus so great that no account of waste was deemed necessary. Leigh was privy to all the proceedings in the Cause, being Solicitor for William and Thomas Bostock, nor has he proved any valuable consideration for the assignment. Pray that the Appeal may be dismissed. *Signed* by Respondents; *Countersigned* by R. Bretland. *Endorsed* as brought in this day.

(*b.*) 16 Feb. Answer of Francis Leigh, Gent. Thomas Bostock, Gent., being entitled to 500*l.* East India Stock, assigned it on 9 Nov. 1691 for good consideration to Respondent, and afterwards, with fraudulent intent to avoid it, brought his Bill against him in 1685. Before the Cause was heard, he died, leaving Penelope, his widow, and Robert Raworth his Executors. Penelope, having proved his will, brought a Bill of Revivor and then married the Respondent Hull, who brought another Bill of Revivor and revived the said Cause, which was heard on 20 July 1689, together with the one in which Appellant was Plaintiff. The East India Company not having been made a Party to either Cause, Respondent was forced to bring another Bill against them and Appellant to have a transfer of the Stock and to compel the Company to pay the dividends then due, which was decreed accordingly on 3 Sept. 1688 (*sic*). Hull and his wife then petitioned the Lords Commissioners for a rehearing of both the said Causes, and Langhorne obtained a rehearing at the same time of the Cause wherein Appellant was Plaintiff. All the said Causes were heard by the Lords Commissioners on 9 Dec. 1689, and Hull's Bill was dismissed and the Decree in the Cause wherein Respondent was Plaintiff, was confirmed. Langhorne and his wife, since then, procured another rehearing on 2 March 1690, although his Bill of Review was not then, nor is yet, determined. Respondent insists on the several dismissions and decree in affirmation of his title to the Stock. *Signed* by Respondent; *Countersigned* by Simon Harcourt. *Endorsed* as brought in this day.

678. Jan. 27. Baron *v.* Sir W. Haward.—Petition and Appeal of Christopher and William Baron, Administrators with the Will annexed, of George Baron. The Water-house and Water-work at Broken Wharf, London, being mortgaged by one John Burrough to Appellants' Testator for 5,000*l.*, and being in lease to one Barrington, Ramsey and Norwood for 21 years at 800*l.* a year, besides a ground-rent of 282*l.* 16*s.* 8*d.* payable to certain lessees of the City of London, Respondent, Sir Wm. Haward (Plaintiff below), exchanged for Burrough's interest an estate in Surrey, and covenanted to pay the mortgage, but neglecting to do so, made an agreement on 26 March 1684 with the Testator, George Baron, granting, for 1,000*l.* more, a rent-charge on the Water-works for 500*l.* a year to Testator, who released his mortgage, the rent-charge being payable to him before anything was to be paid to Respondent. The tenants neglecting to pay the rent-charge or the ground-rent, Testator brought his ejectment against Barrington and his co-lessees, and recovered judgment in 1684, and being liable to pay a large sum for ground-rent and other charges about the Water-works, and his own 500*l.* a year being in arrear, took an assignment of some debts from

HOUSE OF LORDS MSS.

1692–3.

Barrington for his security, to which Respondent was privy. Testator then managed the Water-work himself, and laid out above 16,000*l.*, of which sum, and of the arrears of his rent-charge, amounting to above 4,000*l.*, he has not received a farthing. Respondent brought a Bill in Chancery against Appellant and others for an account of the profits of the Water-work, and on hearing the Master's Report, the Lords Commissioners on 21 Nov. 1691 declared that Baron's entering and avoiding the lease ought not to prejudice Respondent, but that he ought to have his 300*l.* a year during the term in the avoided lease, and decreed payment to him of the arrears and growing rent, before Appellants should receive any part of their 500*l.* a year. The Master, who was directed to take an account, reported that Appellants' and Testators' expenses on account of the Water-work exceeded their receipts. Since then, the Court on 24 Jan. has ordered the Master to appoint a Receiver and Manager of the Water-work, and that Appellants should deliver their books to Wm. Terry, Respondent's Accountant. Appeal from the last-named Decree and Order, and pray that Sir Wm. Haward may be ordered to answer. *Signed* by Appellants; *Countersigned* by Wm. Dobyns and Jo. Hungerford. L. J., XV. 204. [The Cause was heard on 23 Feb., *Mr. Finch* and *Mr. Dobyns* being heard for Appellants, and *Sir Thomas Powys* and *Mr. Filmer* for Respondent. Counsel for Respondent stated that the Water-work yielded between 900*l.* and 1,100*l.* a year. Decree affirmed. (MS. Min.; L. J., XV. 245.) For further proceedings see Notes to Annex (*b*) below.]

Annexed:—

(*a.*) 15 Feb. Answer of Sir William Haward, Knt.—The Testator, by combination with one Edward Hemings, John Burroughs and others, drew Respondent into an exchange of a good estate in fee simple in Tandridge Hall, Surrey, worth 600*l.* a year, for the Water-work, subject to a yearly ground-rent of 282*l.* 16*s.* 8*d.*, and several incident charges, and afterwards, to regain the Water-work, avoided a lease made by Testator and Respondent, to Abraham Barrington, William Ramsey, and Edward Norwood, whereon a further rent of 800*l.* a year was reserved, whereof 500*l.* a year was to be paid to the Testator, and 300*l.* in Respondent. Respondent suffered the whole of this 800*l.* to be reserved to Testator, being then ignorant of his designs, but on Testator's avoiding the lease, brought his Bill to be relieved against the fraud. If the expenses of the Water-work devoured the profits, it was due to mismanagement. Prays that the Appeal may be dismissed with costs. *Unsigned* by Respondent. *Countersigned* by Tho. Powis and Tho. Filmer, whose signatures are copied. *Endorsed* as brought in this day.

(*b.*) 28 Jan. 1697–8. (Appeal lately depending.)—Petition of Christopher and William Baron. Repeat the contents of their Petition of Appeal above, and add that, since the dismissal of their Appeal by the House on 23 Feb. 1692–3, the matter having come before the Court below, in respect of the profits only, the L. Chancellor on 3 Nov. 1697 ordered Petitioners to pay 100*l.*, with leave to apply to the House for an explanation of the Order of 21 Nov. 1691. Pray their Lordships to declare whether the said Order was intended to oblige Petitioners to answer the 300*l.* a year to Respondent otherwise than out of the profits of the Water-work, and to appoint a day for hearing. *Signed* by Petitioners: *Countersigned* by P. Crawford and Jo. Hungerford.

[Read this day and referred to a Committee, to consider whether the same be fit to be received. L. J., XVI. 204.) In Committee on 4 Feb., the original Petition of Appeal and Answer and Judgment of 23 Feb. 1692–3 were read, together with the above Petition. *Mr. Dobyns* (for Petitioners) opens the Case. The two Orders of Chancery, of 21 Nov. 1691 and 24 Jan. 1692, are read. He quotes *Dodd* v. *Burroughes*, and the case of *Sir Edward Turner*,* where the Lords explained their Orders. *Mr. Jennings* (for Petitioners): We desire not a rehearing on the merits, but to explain your own Order. *Sir Thomas Powys* (for Sir Wm. Hayward): Shows what practices Baron had used to cheat Sir Wm. Hayward of his right in the Water-work. *Mr. Filmer* (for Sir W. Hayward): We have had at least twelve or thirteen references. *Ordered* to report that the Petition be rejected. (Com. Book.) On report on 7 Feb. the Petition was accordingly rejected. (L. J., XVI. 208.)]

House of Lords MSS.

1692–3.

679. Jan. 27. East India Company *v.* Attorney-General.—Petition and Appeal of the Governor and Company of Merchants of London trading to the East Indies. The Company at their vast charge established a trade to the East Indies, much to the honour and public benefit of this Kingdom, and erected factories and built forts and castles, wherein they kept soldiers for the defence of their trade and privileges, granted to them by the Mogul or King of that country, and by Charters of Charles II. and James II. had full power to make war or peace with any of the heathen princes within the limits of their trade, without any reservation to the Crown or Lord High Admiral of England of the tenth or any other part of prizes, and continued to enjoy their trade and liberties until of late, by the unwarrantable trading of interlopers, and greatly by their means and procurement, their factories, servants and goods were unjustly seized and large sums extorted from them. They refrained, however, from any hostile act, until the Moors, by their barbarous murder of an Englishman, and assaulting the rest at Hooghly, began the war and became the aggressors. The particulars of their injuries were then faithfully represented to his Majesty in Council, who was pleased to direct them to make war against the Great Mogul, which was done, and his Majesty granted commissions to several Captains of his ships-of-war to assist the Company, requiring the Captains to take care that the tenths of all prizes taken and condemned should be paid to the Crown. The whole expenses of the war, which continued for some time, were paid by Appellants, who paid the King the tenths of all the prizes, amounting to 1,361*l.* 13*s.* 1*d.*, taken and condemned in the East Indies, being all of which they had any notice. But Walter Whittfeild, John Earle and Thomas Killner, pretending that more prizes were taken than those accounted for, and having got a Privy Seal for the tenth part of all that were taken, prevailed with the Attorney-General, at their relation, to exhibit a Bill in the Exchequer against Appellants for an account. The latter answered denying that they were accountable, or that they took any ships as prize, and insisting that the ships stayed during the war were only stayed in order to make an honourable peace, and that by the Articles of Peace they are obliged to restore them, except such as were sent to England, or destroyed and plundered by the soldiers, for which Appellants, as was stipulated, have paid. Two of Appellants' ships, the *Charles II.* and the *New London*, arriving, after this, with goods from the East

* *Turner* v. *Turner*, L. J., XIV. 344.

HOUSE OF LORDS MSS.

1692-3.

Indies, the Relators endeavoured to charge Appellants with all their cargoes as prize goods, though a great part was bought by Appellants' factors in the East Indies, and most of the rest belonged to other merchants, leaving very little, if any, prize goods, and what there were, never condemned, as Appellants could have fully proved, had a Commission been allowed them to examine their witnesses abroad. The Court, after hearing the Cause, made two Decrees on 25 Jan. and 1 Feb. 1691, ordering Appellants firstly, to account for the tenth of all prizes condemned in Bengal and of the prize goods brought to England in the two ships, and secondly, to make a general account of all prizes whatsoever taken in the war. The Remembrancer reported prize goods on the two ships to the value of 90,000*l.*, and a tenth thereof, or 9,000*l.*, to be due to the Crown, the report being grounded on the evidence of only one positive witness, one Jeremiah Bonneale, which was contradicted by Appellants' Answer, and as to 179 bales of goods by some of Appellants' witnesses. The Court, on hearing exceptions, referred it to a trial at law whether the said bales were prize goods or not, and a jury found that they were not. The Court, however, on a further hearing of the exceptions, and without any further evidence, on 29 Nov. 1692 confirmed the Report, discounting 1,060*l.* for the tenth of the said bales, and decreed the remaining 7,940*l.* to be paid by Appellants, and though by a later Order of 6 Dec. a Commission has been granted to Appellants to examine witnesses in the East Indies as to the general account, Appellants are not allowed to examine to any matters relating to the two ships. Pray that the Decree of 29 Nov. 1692 may be reversed, and the Attorney-General and Relators ordered to answer. *Signed* in the name and by order of the Company by Robt. Blackborne, Secretary; *Countersigned* by James Smyth and Will. Coke. L. J., XV. 204. [The Cause was heard and the Decree affirmed on 14 Feb., *Mr. Finch* and *Mr. Ward* being heard for Appellants, and *The Solicitor-General* and *Sir William Williams* for the Crown. (MS. Min.; L. J., XV. 229.)]

Annexed:—

(*a.*) 6 Feb. Answer of Sir John Somers, Knt., her Majesty's Attorney-General, as well for and on behalf of their Majesties, as for and on behalf and at the relation of Walter Whitfeild, John Earle and Thomas Kilner, Relators. As to the so-called Interlopers, or the provocations given by the Moors, or the representations made by Appellants to the King or Council, Respondents know nothing. James II. granted several commissions to Captains of the Company's ships to assist the Company in the war, with directions to keep note of all prizes and send accounts to the Secretary of the Admiralty, and bring all prizes to some Court of Admiralty in India, without breaking bulk or wasting them before judgment, and taking care that the Lord High Admiral's tenths should be paid. It was fully proved that Appellants took several other prizes to a considerable value and industriously kept off all Courts of Admiralty, which could only be held by their order, to avoid the tenth due to the Crown and the seamen's sixth promised by the Company. The Privy Seal of 28 Feb. 2 Will. & Mary gives the Relators power to sue for the tenths, and keep one-third thereof for their pains and charges. Tobias Eden, Deputy to the Remembrancer of the Exchequer, reported, after full proof, that the prize goods on the two ships were brought to England for the Company's service, and part of them sold publicly at the East India House on 30 Oct. 1690, as was admitted by Francis Boyer, their Ac-

countant, who valued the part sold at 38,070*l.* 17*s.* 9*d.*, and another part, not mentioned in Boyer's account, but amounting in value to 51,930*l.*, sold by private contract. The applications for a Commission to examine witnesses were made merely for delay. Appellants by their Agents tried to conceal the prize goods by altering the marks and parcels in their warehouses. Bonneale had been a servant of Appellants during the war, and came over with the prize goods, and his evidence was supported by good proof. Pray that the Appeal may be dismissed with costs. *Signed* by J. Somers. *Endorsed* as brought in this day.

680. Jan. 27. Sir J. Williams' Estate Act.—Draft of an Act to enable Sir John Williams, of Llangibby Castle, in the County of Monmouth, Bart., to sell the manors of Ewyas Lacy, Waterston and Trescaillan and other lands in the County of Hereford, and the manor of Carwent and other lands in the County of Monmouth for payment of debts. No Amendments by the Lords. (Com. Book, Feb. 7, 9, 10 and 13.) The Commons' Amendments are given in C. J., X. 834. [Read 1ª this day; Royal Assent 14 March. (L. J., XV. 204, 289.) 4–5 W. & M. c. 36 in Long Calendar.]

681. Jan. 27. Bayntun's Estate Act.—Petition of Clottworthy Skeffington, Esq. Petitioner may be prejudiced by the Bill, if not sufficiently provided for, but living remote in the country, he had no notice of it till very lately. Prays to be heard by Counsel before it is further proceeded with. [Read this day in Committee. (Com. Book.) The Bill for the more speedy and effectual execution of the Trust created by the Will of Henry Bayntun, Esq., deceased, and for raising a portion for his daughter, was brought from the Commons and read 1ª on Jan. 18; Royal Assent 14 March. (L. J., XV. 188, 289.) 4–5 W. & M. c. 27. in Long Calendar.]

Annexed:—

(*a.*) 27 Jan. Draft Proviso, marked ✠, as follows:—Provided that this Act or anything therein contained shall not extend in any sort to avoid, impeach or prejudice any right or interest which Clottworthy Skeffington, Esquire, in the right of Rachell, his wife, daughter of the said Sir Edward Hungerford, or either of them or their assigns hath or have, or can or may have, either in law or equity, in or to any portion or portions, sum or sums of money whatsoever charged, or which at any time hereafter may be payable on or out of the premises or any part or parts of the same, by virtue of any deed or deeds, settlement or settlements of the same, made by the same Sir Edward Hungerford in the year 1664, or otherwise howsoever, but that the same shall be and remain to him the said Clottworthy Skeffington and Rachell, his wife, their executors, administrators and assigns, as if this Act had never been made, anything therein contained to the contrary in any ways notwithstanding. [Offered this day in Committee by *Mr. Sloane*, Counsel for Petitioner above. *Mr. Gage* (for Lady Anne Bayntun): Mr. Skeffington's interest is sufficiently saved by the General Saving. *Mr. Holford* (for the Creditors): This Proviso will impede the sale of the estate. They withdraw. They are called in again and asked whether the naming Mr. Skeffington and his Lady and their assigns in the Saving Clause may not be sufficient to secure them, and not

HOUSE OF LORDS MSS.

1692–3.

prejudice Lady Bayntun or the Creditors. They think it may. (Com. Book.) *]

(*b.*) 8 Feb. Petition of John Bush, late of the City of Dublin, Merchant.—The late Thos. Horton, of Iford, in the County of Wilts, Merchant, was seized of certain lands in and adjacent to Iford, of the yearly value of 500*l.*, which are lawfully descended to Petitioner, as his right heir at law, he being son and heir of Paul Bush, who was son and heir of James Bush, son and heir of Walter Bush and Maud, daughter and one of the coheirs of Thomas Horton, who in 1530 enfeoffed the said estate on his nephew Thos. Horton and his heirs male, failing whom, on the heirs male of Anthony and Henry Rogers, failing whom, on his own right heirs. Petitioner served summons of ejectment on the tenants about two years past and had proceeded to take rules for a trial, but was debarred by Henry Baynton, Esq., of Spy Park, co. Wilts, who was then in possession and claimed privilege as a Member of Parliament. Bayntun then obtained leave in the Commons to bring in the present Bill, which, if passed, will obstruct, if not defeat, Petitioner's title. Prays that his right may be determined before the Bill passes, or that a saving may be introduced in his favour. [Read this day in Committee. Com. Book.]

682. Jan. 28. L. Stawell's Estate Bill.—Draft of an Act for payment of the debts of John, Lord Stawell, lately deceased. The Bill is to the following effect:—

§ i. Whereas the said debts are very great, and cannot be satisfied except by sale of his real estate, for which an Act of Parliament is necessary, as Anne, his only child and heir, is an infant, not yet one year old; the Bill therefore enacts that all the estate and interest which the late John, L. Stawell had, and William, L. Stawell and his brother Edward, now have, in certain manors, &c. in Somerset, Dorset and Wilts, or elsewhere in England, shall be vested in (*blank*), in trust to sell the same (except the manor, &c. of Cotheleston, mortgaged to Lady Grace Pierrepoint) or so much as shall be sufficient for the purposes of the Act; to apply the money so raised, and all the rents, &c. received until such sale, (1) first in reimbursing the charges of the Trustees, and next (2), in paying a yearly sum of (*blank*), payable half-yearly, as maintenance to Anne Stawell; (3) to satisfy with interest all debts due by John, L. Stawell, first, upon mortgage (except 6,000*l.* due to Lady Grace Pierrepoint), next, upon statutes, &c., and lastly, all his remaining debts; (4) to pay to Margaret, Lady Stawell, his widow, the sum of (*blank*); and (5) to pay the residue remaining in their hands to Anne Stawell, her heirs and assigns, for whom the Trustees shall then stand seized, in trust, of the premises unsold.

§ ii. And whereas Margaret, Lady Stawell was or is entitled to a portion of 10,000*l.* by the provision of her father the late James, E. Salisbury, whereof only 254*l.* 2*s.* 6*d.* has been as yet received, and 5,273*l.* 10*s.* 0*d.* remains now in the hands of Sir Edward Desbouverie, Knt., and the remaining 4,472*l.* 10*s.* 0*d.* remains to be raised by an Act of this present Parliament for the better securing the portions, debts and legacies given and owing by James, late Earl of Salisbury; And whereas John, L. Stawell, before his marriage with Margaret,

* It appears from the original Roll that the Committee, instead of adding the above Proviso, inserted in the general Saving Clause the names of Clottworthy Skeffington, and Rachell his wife, and their assigns. From an entry in MS. Min., it appears that the Committee was revived on 28 Jan.

Lady Stawell, who was then under 21 years of age, agreed to settle a rent-charge of 1,500*l.* a year upon her for her jointure, in consideration of the said portion and in lieu of her dower, but his incumbrances and death prevented his performing that agreement, and in regard the encumbering the estate with such a rent-charge will extremely prejudice the sale thereof, the said Margaret, Lady Stawell is therefore content to accept of an equivalent satisfaction for it, the Bill further enacts that Lady Stawell's said right of dower and claim to rent-charge or jointure shall cease, and that, in satisfaction for the same, she shall receive the said sums of 5,273*l.* 10*s.* and 4,472*l.* 10*s.* free of all claims, and also the sum of (*blank*), hereinbefore limited to be raised and paid to her by the said Trustees.

§ iii. And whereas by Indenture of Mortgage, dated 6 August 1690, between John, L. Stawell and Lady Grace Pierrepoint, the manor, &c. of Cotheleston and L. Stawell's other lands there, and in Kingston and Bishopps Lydiard, in Somersetshire, were granted to Lady Grace for 500 years, without impeachment of waste, under a Proviso that John, L. Stawell should re-enter on payment of 6,300*l.* at certain times, and also 5,000*l.* with interest, and it was agreed that the mortgage should stand as a security for payment to her of the other 5,000*l.* and interest, and L. Stawell entered into a bond of 12,000*l.* to Lady Grace for payment of the 6,000*l.* and interest and performance of the covenants in the mortgage; it is enacted that the said (*blank*) Trustees shall forthwith sell so much of the manor, &c. of Cotheleston as shall suffice for the performance of their trust, viz. to apply the moneys so raised, and the rents received until such sale, in paying, first, all their charges, &c. as Trustees, and next, the said sum of 6,000*l.* with interest; or, in case Lady Grace shall receive anything, in satisfaction of her debt, out of L. Stawell's personal estate, or any of the said lands (except the manor, &c. of Cotheleston), then in trust, to reimburse (out of the moneys to be raised out of the manor, &c. of Cotheleston), towards satisfaction of L. Stawell's debts and for the benefit of Anne Stawell and her heirs, so much money as Lady Grace shall so receive; and lastly, in trust to stand seized of so much of the manor and premises as shall remain unsold, in trust for William, L. Stawell and Edward Stawell, his brother, and their heirs male and the right heirs of John, L. Stawell for such estates, and subject to such charges (other than the 6,000*l.* and interest), and in such manner as if this Act had not been made, and after such sale, to make conveyances of what shall remain unsold accordingly.

§ iv. Provided that every person to whom the said (*blank*) Trustees shall by virtue of this Act sell the premises hereby vested in them, shall hold the same free from all the trusts hereby limited, so as the sum to be paid on such sale be applied towards discharge of any of the said trusts in manner before appointed.

§ v. And whereas John, L. Stawell, dying intestate on 30 Nov. 1692, Dame Margaret Stawell has obtained letters of administration of his personal estate, it is enacted that it shall be lawful for her to retain to herself thereout to the value of (*blank*), and that all the rest shall be applied according to the rules of law and equity, with power to her, nevertheless, to deduct her payments for her husband's funeral and debts, and her charges of administration, she accounting for whatever else she shall receive out of the real or personal estate, other than such part as she shall retain to her own use by virtue of this Act.

§ vi. And to the end that the said real and personal estate may be under the same management, it is enacted that from and after (*blank*) Lady Stawell's letters of administration shall cease, and that the Judge

HOUSE OF LORDS MSS.

1692–3.

of the Prerogative Court of Canterbury may grant letters of administration of the personal estate not administered by her to the Trustees.

§ vii. Saving to the Queen, &c. [Read 1ª this day. (L. J., XV. 206.) In Committee on 9 Feb., L. Cornwallis in the Chair, *Sir Thomas Powys* (for Mrs. [Lady] Stawell) desired there might be an estimate of the arrears of rents, of renewing leases and of a mortgage of a great sum due to the late L. Stawell, and of the rest of his personal estate. The L. Stawell's debts are nearly 80,000*l.* Mr. Leigh's mortgage and the L. Stawell's personal estate will be nearly 40,000*l.* The filling up lives may make 8,000*l.* The Lady's fortune still unpaid is about 9,700*l.* This makes together 57,000*l.* and some hundred pounds. *Sir William Williams* (for the Bill): The debts are about 80,000*l.* The whole estate will be cumbered with these debts. Without an Act, 20 years will not clear the estate. The personal estate will not be more than 2,000*l.* We know nothing of Leigh's lease; it is merely imaginary. Fines will come in by leases, perhaps 8,000*l.* *Mr. Dobyns* (for the Bill): This Act is no more than a general settlement. We pretend not to the personal estate. We know not what my Lord's debts were. *Sir Thomas Powys* desires that the Counsel on both sides may meet and peruse the Stewards' Books and inform themselves, as well as they can, concerning the personal estate. *Mr. Dobyns:* The mortgagees have the whole estate. *Mr. Reding* says he has the mortgages, and the account between L. Stawell and Col. Leigh. *Sir Thomas Powys* and *Mr. Reding* open Mr. Shale's and Mr. Shelden's case as to the 5,200*l.* mentioned in the Bill. *Counsel* for L. Stawell desire to be heard at the next meeting. *Ordered* accordingly.—On 11 Feb., L. Cornwallis in the Chair, *Mr. Dobyns* (for the Bill) says that the Solicitors on both sides have spent much time in perusing the Books. They say that the Quit-rents are 525*l.* per annum, and the demesnes are 435*l.*, and Awbery 350*l.*, and the Parsonage of Halse is 80*l.*, and the other demesnes are 500*l.*—in all 1,890*l.* Cudleston [Cotheleston] demesnes are 400*l.*, and chief rents 16*l.* 8*s.* 2*d.* The total of fines for 20 years is 48,315*l.*, which is about 4,000*l.* a year. The personal estate is 21,700*l.* and some goods unappraised. *Sir Thomas Powys:* The fines are 2,400*l.* per annum; the demesnes 1,365*l.* per annum, and the Quit-rents 525*l.* per annum; Mr. Leigh's mortgage 14,000*l.*; from Sir William Bassett 1,100*l.*; two shares in Bermudas Back (*sic*) 400*l.*; from Mrs. Cole 500*l.*; on several bonds 600*l.*; part of the personal estate already appraised 5,000*l.*; part thereof not appraised 5,000*l.*; Lady Stawell's Portion 9,746*l.*; lives now fallen 7,000*l.*:—Total 43,346*l.* The debts are about 72,000*l.*, which is more than the personal estate by 28,654*l.* [Of the debts there are portions to the L. Stawell's three sisters not yet payable 20,000*l.*]* *Serjeant Thompson* (for L. Stawell) says the manors of Cotheleston and Bishopps Lydiard are come to the present L. Stawell. Prays this Bill may not relate further to this Estate than the taking of 11,000*l.*, which is charged on them. *Agreed*, That there be a power by the Bill to Trustees to sell, with restraint to them that they abuse not their power, and that the overplus of the money raised by the sale shall be laid out in purchase of lands for the infant. That 5,000*l.* may be raised by the sale more than the 28,654*l.* debts. That the Trustees be agreed by the several Parties against the next meeting. *The Lady Dowager Stawell* desires to have her part in money.—On 14 Feb., L. Cornwallis in the Chair, *Mr. Filmer* (for Lady Grace Pierrepoint) says she desires no Trustee. *Sir Thomas Powys* proposes that the personal estate and fines for leases pay off the mortgages.

* The words in square brackets are struck through.

Mr. Conyers (for Mr. Adams): We must have our whole sum together. *Sir Thomas Powys* proposes that all moneys raised by the Trustees be kept in their hands till they can pay off a whole mortgage. *Mr. Dobyns:* This matter must be left to Trustees, under the direction of the Chancery. *Mr. Conyers* proposes that the money raised do in the first place pay all interest. *Mr. Dobyns:* This method of payment will ruin the estate. Nothing but a power to sell the whole will do. *Sir Thomas Powys* says that the 20,000*l.* to the children and the 6,000*l.* to the Lady Grace Pierrepoint need not be quickly paid. He proposes that land at a distance in Dorsetshire, to the value of 13,000*l.*, may be sold, viz., Chilfroome, Wraxall, &c. That, if this be not sufficient, then the annual profits till the child's age of 21 years should go towards the payment of the debts. That the lease of Gamesham may be sold for 1,100*l.* That the Trustees have not only a power to receive profits, but to sell what they think fit of the estate, if all debts be not then paid. He offers a Clause, which enacts the premises.* The Clause is read. *Mr. Dobyns* says he has not seen it, so cannot speak to it at present. Desires time to consult Counsel in it, for it overthrows the whole Bill. They withdraw. The Parties and Counsel are called in again and told that the Committee are of opinion that the personal estate shall entirely go in satisfaction of the debts, as has been proposed, and that they would have a Clause drawn to that purpose. That there is no value to be set on the personal estate. That their Lordships will take particular care of my Lady. *Mr. Dobyns* desires that the Creditors, who are numerous, that have no other fund but the personal estate, may be heard; which will be a work of time, for many of them are in the country. We insist that the whole 10,000*l.* portion is my Lady's own money. *Ordered*, That the Counsel meet and draw a Clause to the effect aforesaid against the next meeting.

On 16 Feb., L. Cornwallis in the Chair, *Sir Thomas Powys* acquaints the Committee that the Counsel have met and agreed to some amendments and a Clause. The Clause is read.† *Mr. Gibbins* (for the Bond Creditors) desires that they may not be postponed till the mortgages be paid, but that they may be paid out of the personal estate. *Mr. Dobyns* (for the heir-at-law): We are willing all debts shall be paid, and do not oppose the Clause. The whole Estate is in mortgage, and pays interest for 80,000*l.* *Sir Thomas Powys:* The only question between us is, whether the Trustees shall sell such part of the Estate as your Lordships shall direct, or such part as the Chancery shall direct. *Mr. Dobyns:* If the Trustees may not have power to sell the whole, we retract our consent of taking any money for my Lady, and will withdraw our Bill. My Lady will rely on her dower, which will affect all the Estate, except that for the children's portions, for her Ladyship's marriage was before the mortgages. *Mrs. Stawell* says it is her desire that all the Creditors be paid. *Sir Thomas Powys* desires a day's time to consider of it. *Mr. Reding* (for L. William Stawell) says he has prepared a Bill which he desires leave to bring in. Nothing more was done. (Com. Book.) The Bill, accordingly, dropped in Committee, but a Bill with the same Title and corresponding largely with the above, received the Royal Assent on 16 April 1694. (L. J., XV. 417. 5–6 W. & M. c. 34. in Long Calendar.)]

Annexed:—

(*a*.) 14 Feb. 1692–3. Amended ‡ Draft of Proviso, as follows:—
Provided also, and be it enacted and declared by the authority aforesaid, That the said , their heirs

* Annex (*a*). † Annex (*b*).

‡ The omissions are shown by square brackets, and the additions by italics.

and assigns, shall in the first place apply the said personal estate of the said John, Lord Stawell, other than and except , hereby appointed to the said Lady Stawell, towards the payment of the said debts due by mortgage, so far as the same will extend, in such manner as by this Act is directed, and also [until sale made of the said real estate] *that they, the said , with all convenient speed, shall also fill up all the leases and copies of Court Rolls, and wherein any lives are fallen, to the best purchaser or purchasers, that can or may be got for the same, and that the moneys arising thereby shall also be applied towards the payment of the debts aforesaid, and that they, the said* , shall apply the rents, issues and profits of the said real estate *from time to time*, except what hereinbefore by this Act is appointed for the maintenance of the said Anne Stawell, for the payment of [the said debts as aforesaid] *such debts as shall be remaining and unpaid.* And it is hereby declared, That the said Trustees shall make sale of all the estate of the said John, late Lord Stawell, in Rampisham, Chillfroom and Wraxall aforesaid, to the best purchaser or purchasers that can or may be had for the same, as also of a certain term of thirty years yet to come, on a lease of certain lands situate in *Gamesham*, and of every or any part or parts thereof, before any other part or parts of the said real estate of the said late Lord Stawell, herein and hereby vested in the said [Trustees] , their heirs and assigns, shall be [exposed to sale] *sold;* and that from and immediately after [such sale] *application* of the said personal estate and of *the money arising by fines, as also by the sale of* the said premises in Rampisham, Chillfroome and Wraxall, and of the said term for thirty years in *Gamesham* [aforesaid], hereinbefore directed to be sold, That such part of the said debts of the said personal estate [and], *fines and profits of the premises, and money arising by sale of* the premises hereinbefore in this Act limited in the first place to be sold [as the same] shall not amount to pay, that then and in such case, they, the said , their heirs and assigns, shall and may from time to time apply the residue and remainder of the rents, issues and profits of all the said premises, over and above what is hereinbefore by this Act limited, to the said Anne Stawell for her maintenance, towards the payment and satisfaction of the residue and remainder of the said debts *of the said late John Stawell*, due by mortgage *or otherwise*, with such interest as shall become due for the same, until the said Anne Stawell shall attain her age of 21 years or be married, and that from and after her attaining her said age of 21 years or marriage as aforesaid, in case all the said debts shall not be paid, that then, in such case, it is hereby declared to be the true intent and meaning of this Act, that it shall and may be lawful to and for the said , their heirs and assigns, to make sale of such other part of the said estate as shall be then thought most convenient, for the payment of the residue and remainder of the debts which shall then be due and owing to any person or persons, and the residue of the money that shall arise by such sale (if any there be) [that then in such case it is hereby further declared that the same] shall be laid out in the purchase of other lands, tenements and hereditaments by the said , their heirs or assigns, in some convenient place near adjoining to such

of the said real estate as shall remain unsold, *which said lands and premises, when purchased, shall be in trust for, and conveyed unto the said Anne Stawell and her heirs*, and [that] until such purchase made, the said money (if any there be) and the interest and increase thereof from time to time, shall go and is hereby vested in the said , their [heirs] *executors, administrators* and assigns, for the use and benefit of the said Anne Stawell and her heirs, or such person or persons, and their heirs, to whom the freehold and inheritance of such parts of the said manors, hereditaments and premises as remain unsold shall from time to time go and belong unto (anything in this Act herein contained to the contrary thereof in any wise notwithstanding.) *Endorsed* as read this day. [*See* Notes to first Paper under date.]

(*b.*) 16 Feb. Draft Proviso as follows:—Provided always, and be it enacted and declared by the authority aforesaid, that the said , their heirs and assigns, shall in the first place apply the said personal estate of the said John, Lord Stawell towards the payment of the debts of the said Lord Stawell, so far as the same will extend. *Endorsed* as read this day. [*See* Notes to first Paper under date.]

683. Jan. 28. L. Shannon's Estate Act.—Amended Draft of an Act [concerning the Lord Shannon's Estate] *for settling the Estate of Francis Boyle, Lord Viscount Shannon in the Kingdom of Ireland.* The Lords' Amendments, which include the one in the title (Com. Book, 7 Feb.), are purely verbal. No amendments in the Commons. [Read 1ª this day; Royal Assent 14 March (L. J., XV. 206, 289) 4–5. W. & M. c. 31. in Long Calendar.]

684. Feb. 6. Towers' Estate Act.—Amended draft of an Act for vesting the manors of Barcrofts, otherwise Thonock, otherwise Lowthonock Hinton, otherwise Hengton, and other lands in the County of Lincoln, Isle of Ely, Counties of Cambridge and Norfolk, in Trustees for payment of the debts of Thomas Towers, Esq., and making provision for his wife and daughter. The Lords' Amendments (Com. Book, 10 Feb.) are to insert the names of the Trustees, and the words ("Feast of St. Michael the Archangel"). No amendments in the Commons. [Read this day; Royal Assent 14 March. (L. J., XV. 217, 289) 4 & 5 W. & M. c. 33. in Long Calendar.]

Annexed:—

(*a.*) 10 Feb. Letter of Attorney from Thos. Towers, of Haddenham, Esq., empowering Mr. Wm. Pocklington to give consent for him to the Bill. *Dated* 21 Jan. 1692. *Attested* by Henry Palmer and Ann Grove. [Read this day in Committee. Com. Book.]

685. Feb. 6. Chetham *v.* Humfrey.—Petition and Appeal of Ralph Chetham, Gent., Administrator of George Beale, Esq., deceased, Beale, on his marriage with the daughter of the late Toby Humfrey, the father of Respondent, was to have 1,500*l.* portion, of which he has received nothing but some goods of small value, Toby being greatly indebted, particularly in respect of bonds for 2,500*l.*, in which he was bound jointly with Respondent, whom he indemnified by confessing a judgment of 4,000*l.* In 1686 execution being sued out upon a judgment of 400*l.* obtained against Toby by Anne Savile and one Robinson, the bailiffs of Pomfret seized his goods and sold them to Beale for

HOUSE OF LORDS MSS.
1692-3.

332*l.* 15*s.* 2*d.*, their full value. Thereupon Respondent brought a *scire facias* against Beale, as executor *de son tort*, upon the judgment of 4,000*l.*, to which Beale pleaded fully administered. It being agreed to refer all differences to the now Justice Rokeby and Serjeant Belwood, Beale entered into a bond of 1,000*l.* to stand to the award, if made by the 29th September following. Notwithstanding this agreement, and although all the matters were transacted in Yorkshire, Respondent proceeded to an *ex parte* trial upon the *scire facias*, and obtained judgment for 637*l.* Beale, after failing to get the judgment set aside in a Court of law, brought a Writ of Error and a Bill in Chancery, and obtained an injunction, but the suit abating by Beale's death in their Majesties' service beyond sea, Respondent renewed his proceedings at law, and took out execution for 1,274*l.* against Appellant, who had been bail for Beale in the Writ of Error, whereupon Appellant took out letters of administration of Beale's estate and revived the cause in Chancery. After a hearing on 26 Nov. last, the Lords Commissioners, in regard the matter of the irregularity of going to trial had been examined in the Common Pleas, declared they could not relieve Appellant further than as to his standing in Beale's place, and decreed an account touching the debts for which Respondent was co-surety with his father, and ordered the 637*l.* to be paid into Court. Prays that this Decree may be reversed, at least so far as to allow a new trial, and Respondent ordered to answer. *Unsigned* by Appellant; *Countersigned* by J. Somers and Ambr. Phillipps. L. J., XV. 216. [The Cause was heard and the Decree affirmed on 10 March, *Sir Ambrose Phillipps* and *Mr. Finch* being heard for Appellant, and *Sir Thomas Powys* and *Mr. Ward* for Respondent. (MS. Min.; L. J., XV. 283.)]

Annexed:—

(*a.*) 11 Feb. Answer of Toby Humfrey. Respondent was bound for debts of his father amounting to above 3,500*l.* Beale, on his father's death, possessed himself of all his personal estate, under pretence of being his executor. Beale proposed the reference, and Respondent never entered into any bond to abide the award, nor does he know that any bond was entered into by Beale. The award not being made by the time agreed on, Respondent gave Beale due notice of his proceeding to trial. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Powys. *Endorsed* as brought in this day.

686. Feb. 6. Alnage (Customs Collection) Bill.—Commons' Engrossment of an Act for transferring the Collection of the Duty of Alnage to the Custom House, and for giving a recompense to the Crown for the same. This Bill differs from the Bill of 20 Jan. 1691-2 by omitting Clauses 4 and 8, and also the words of that Bill inserted here in square brackets, and by adding the words in italics, viz.:—

Clause 1.

. . . Collector of the [subsidy or duty] *duty and subsidy* of Alnage . . .
. . . is no [way] *ways* serviceable to the Woollen Manufactures . . .
. . . manner of collecting the said [duty] *duties* by officers . . .
. . . hindrance to the trade of the Woollen Manufacturers [And whereas great disputes and controversies have arisen upon several kinds of woollen manufactures, whether any or what duty is or hath been due for the same]. For remedy whereof . . .
. . . March, *which shall be in the year of our Lord*, one thousand, six hundred, ninety [two] *and three*, the Office . . .
. . . Collectors of the said duty [or] *and* subsidy of Alnage . . .

Clause 2.

. . . may be [ascertained and] brought in with little charge [and] *or* trouble . . .

. . . that [all] the duty [or] *and* subsidy of Alnage [due and payable before the passing of this Act] for the Woollen Manufactures . . .

. . . that is to say, for every long cloth [six] *seven* pence; for every short cloth, according to the Book of Rates, [six] *eight* pence; for every Minikin Bay, [six] *seven* pence; for every double bay, three pence *half-penny;* for every single bay, two pence *half-penny;* for [every pound weight of] *all* old and new drapery that is entered and pays by weight, [half a farthing], *that is to say, for every six pound weight of Perpetuanas and Serges, one penny, and for all other draperies, one farthing the pound weight;* for every dozen of men's stockings, one [half] penny; for every dozen of children's stockings, and ends of stockings, [one farthing] *a half-penny;* for every hundred goads of cotton [sixpence] *one shilling;* for every hundred yards of flannel [fourpence] *one shilling;* for every hundred yards of freeze, [eightpence] *one shilling;* for every pair of blankets, [one half-penny] *threepence;* and for every rug [and coverlet one half penny] *three-pence* . . .

. . . particularly mentioned, *and that all other manufactures made wholly or in part of sheep or lamb's wool, that are now liable to the payments of the duties of subsidy and Alnage, shall upon the exportation thereof, pay a fifth part more than the said commodities are now chargeable with by the Book of Rates.*

Clause 3.

. . . better collecting the said duty [or] *and* subsidy . . .

Clause 4 (Clause 5 of Bill of 1691–2).

. . . received at their Majesties' Custom Houses [by the Custom House Officers] shall be received . . .

. . . title to the said duty [or] *and* subsidy of Alnage hereby transferred . . .

Clause 5 (Clause 7 in Bill of 1691–2).

And whereas the said Duchess of Richmond *hath heretofore,* for and in consideration of [the sum of one thousand, one hundred] *eleven hundred,* forty eight pounds *of lawful money to her paid,* [hath heretofore] granted [unto Richard Seys, of Lincoln's Inn, in the County of Middlesex, Esquire, one annuity or yearly rentcharge of] *out of the said subsidy and duty arising by the Alnage, and the rent thereon reserved, the clear yearly sum of* one hundred *and* thirty-eight pounds *of like money,* [to be paid and] payable in the first place and [preferable] *precedent* to all other payments [out of the said subsidy or duty of Alnage, and out of the rents thereon then reserved] *thereout by quarterly payments unto Richard Seys, of Lincoln's Inn, in the County of Middlesex, Esquire,* for the term of twenty years and one half year, commencing from [Christmas] *the Feast of the Birth of our Lord Christ, which was in the year of our Lord* one thousand, six hundred, eighty *and* two, [to be paid by quarterly payments], of which term there are *now to come* about [eleven] *ten* years *and three quarters of a year* [yet to come and unexpired; Be (*sic*) therefore] *Now* therefore *it is hereby* further *provided and* enacted [and provided], That *by and* out of [such part of] the [said] duty [of subsidy] *and revenue* hereby [granted and appointed to be paid to] *assured to and settled upon* the said Duchess [of Richmond as shall arise at the Custom House in London, the said annuity of one hundred, thirty eight pounds shall be paid to], *there shall in the first place be satisfied and paid, by such person or persons as are hereby appointed to receive the same, unto* the said Richard Seys, his executors, administrators and assigns, *the full yearly sum of one hundred, thirty and eight pounds* [in the first place and preferable to all other payments out of the same, by the said Officers, who shall receive the said subsidy or duty hereby granted, the same to be paid yearly by quarterly payments, to wit] at the four [usual] feasts [of Midsummer, Michaelmas, Christmas and Lady Day] *in the year, that is to say, the Feast of the Nativity of our Lord Christ, the Annunciation of the Blessed Virgin Mary, the Nativity of St. John the Baptist, and St. Michael the Archangel,* by *even and* equal portions [for and] during all the [rest and] residue *yet to come and unexpired* of the said term of twenty years and one half year [granted to the said Richard Seys by the said Duchess of Richmond, yet to come and unexpired], the first payment thereof to *begin and to* be made at [Midsummer Day which shall be] *at the Feast of St. John Baptist* in the year of our Lord one thousand, six hundred, ninety [and two] *three;* and *that he or they, from time to time, as the same shall grow due and pay-*

HOUSE OF LORDS MSS. 1692–3.

able, giving or tendering a receipt or receipts for the same, [his or his assigns'] *such* receipt *or receipts* shall be a sufficient discharge [to the said Officers of the Customs for the same], anything in this Act contained to the contrary *thereof* in any wise notwithstanding.

Clause 6 (Clause 6 in Bill of 1691–2).

. . . interest in the said duty [or] *and* subsidy of Alnage . . .
. . . such their payments *a* receipt or acquittance . . .

Parchment Collection. [Brought from the Commons and read 1ª this day (L. J., XV. 217). On 22 Feb., after hearing Counsel at the Bar,* the Bill was read 2ª and committed (MS. Min.; L. J., XV. 243), but the Committee does not appear to have ever met, and the Bill dropped with the Session, though the Commons sent two Messages, on March 4 and 10, to remind the Lords of it. (*Ib.* 274, 283.)]

687. Feb. 7. Osbaston's Estate Act.—Consent of Cecily and Mary Osbaston, widow and daughter of Francis Osbaston, to the Bill for the sale of certain manors, messuages, lands and hereditaments, late the Estate of Francis Osbaston, Esquire, deceased, for the payment of his debts and legacies, and raising 10,000*l.* for the portion of Mary Osbaston, his daughter, chargeable upon the said Estate. *Dated* 12 Jan. 1692–3. [Delivered in to the Committee this day by Sir Wm. Morley, who averred it to be signed by them (Com. Book).† The Bill was brought from the Commons 25 Jan.; read 1ª the next day; Royal Assent 14 March (L. J., XV. 199, 202, 289). No amendments in either House. 4–5 W. & M. c. 23. in Long Calendar.]

Annexed :—

(*a.*) 7 Feb. Consents of Richard Gresham and John Hockley (by his mark). *Dated* 17 Jan. 1692–3. *Witnessed* by B. Poulton and William Kempton. [Read this day in Committee. Com. Book.]

(*b.*) 7 Feb. Consents of William Kempton, John Shelley, John and Ralph Pittman, Katherine Page (by her mark) and Jane Page (by her mark), being persons to whom certain lands are assured by the Bill. *Dated* 28 Jan. 1692–3. *Witnessed* by Wm. Stane, Richard Stane, B. Poulton and Tho. Pittman. [Read this day in Committee. Com. Book.]

688. Feb. 7. Stephens' Estate Bill [H.L.].—Draft of an Act for selling the Estate of William Stephens, late of Greenwich, in Kent. Identical with Act of 1694 (5–6 W. & M. c. 27. in Long Calendar), except in some particulars of the nature of clerical errors. [Read 1ª this day (L. J., XV. 218). The Com. Book contains no record of proceedings except an Order of 10 Feb. (Bp. of Exeter in the Chair) for all persons to attend the next day. The Bill was reported without amendments on the 11th (L. J., XV. 224). In the Commons, after a verbal amendment was made on third reading, the Question that the Bill do pass was negatived by 33 to 32. (C. J., X. 838.)]

689. Feb. 7. Warre *v.* Minshull (In Error).—Petition of Defendant. Petitioner having obtained a judgment in King's Bench for 300*l.* debt on bond, which has been affirmed in Exchequer Chamber, Plaintiff, for vexation and further delay, has brought a Writ of Error. Prays

* *See* No. **692.**

† The Committee was revived on 6 Feb. for the next day at 9 o'clock. MS. Min.

that a short day may be appointed for hearing. L. J., XV. 218. [The Writ of Error, which was brought in 23 Jan., was withdrawn 14 Feb. (*Ib.* 196, 229.)]

690. Feb. 7. Royal Mines Bill.—Commons' Engrossment of an Act for removing doubts and preventing disputes touching Royal Mines, and that their Majesties may have the Preemption. Identical with Act of 8 Feb. 1693–4 (5 W. & M. c. 6. in Fol. Ed.) except in Sect. ii., where this Bill reads ("fifteen days") instead of ("thirty days") and omits the words ("washed, made clean and merchantable") and reads ("or otherwise that") instead of ("and in default of payment of such respective sums as aforesaid"). *Parchment Collection.* [Brought from the Commons and read 1ª this day. (L. J., XV. 219.) In C. W. H., on 13 Feb., L. Cornwallis in the Chair, the Bill was read through. Title read and postponed. Preamble read. The Clause in the former Act read. *L. C. Baron* [*Atkyns*] was asked whether the Clause in the Statute takes away the King's right in Royal Mines. He cites the case in Plowden.* If the gold and silver extracted out of any mine is of more value than the base metal, it was a Royal Mine. The Judges were of another opinion: that it must be judged to the value. All the lawyers' opinions are: Were the gold and silver, &c. Preamble postponed. House resumed, and progress reported. *Ordered* to be in C. W. H., 16 Feb., and all the Judges to attend. (MS. Min.; L. J., XV. 227.) In C. W. H., on 16 Feb., E. Stamford in the Chair, *the Judges* were heard to the Clause in the former Act, and the Bill was agreed to without amendment,† after a question whether to agree to the Preamble, which was resolved in the affirmative. (MS. Min.) The Bill was reported and read 3ª *eod. die.* (L. J., XV. 232.) Royal Assent refused 14 March. (*Ib.* 289.)]

691. Feb. 8. Lomax *v.* Lomax.—Petition and Appeal of Joshua Lomax, Esq. Appellant's father, the late Joshua Lomax, Esq., settled on his other son Thomas, on his marriage in 1681, a capital messuage and lands called Shenley, in Hertfordshire, of about 170*l.* a year, for life, with remainder to his wife Mary for life for her jointure, remainder in tail to Thomas, with remainder in fee to himself and Anne, his wife, and their heirs. By his Will in 1685 he devised his lands in Bovington and Northchurch to his wife, in trust to sell what she thought fit for paying his debts and legacies, and dispose the rest among his children, failing which disposition, he gave the residue equally to Appellant and his younger brother Thomas for their lives, with remainder by moieties to their sons in tail, and failing male issue, to his daugher Elizabeth and his grandson Henry Appleton and their heirs. By Articles of Exchange made in 1686 between Anne, his widow, and Appellant and Respondents (his younger brother Thomas and Mary his wife), it was agreed that Respondents should convey the Shenley lands to Anne, subject to the same trusts as the other lands were subject to by the Will, and that Anne and Appellant should convey certain parcels of the Bovington estate, to the value of 170*l.*, to Respondents to the like uses as are limited by the marriage settlement of the Shenley estate, and Thomas was to have all the timber of the Bovington estate, worth 1,000*l.* more than that on the Shenley estate, and if Anne at her death should leave 1,000*l.* worth of land

* Plowden's Reports, i. 310–39. Caᵉe of Mines, 9–10 Eliz.

† The Bill was amended on third reading in the Commons by making it not to apply to Ireland. C. J., 27 Jan. 1692–3.

HOUSE OF LORDS MSS.

1692–3.

undisposed of, Thomas and his wife were to release all their right therein to Appellant. Anne and Respondents made conveyances in 1687, in pursuance, as is pretended, of these Articles, but in reality of other and more lands and to different uses. In 1691 Appellant and Thomas agreed to divide the timber on the Bovington and Shenley estates equally between them. After Anne's death, Respondents brought a Bill in Chancery against Appellant for specific execution of the Articles, and an account and distribution of the personal estate of his parents. The Lords Commissioners on 29 June last decreed that the Articles should be confirmed and Anne's deed executed by Appellant. This Decree and a subsequent Decree of 6 Feb. inst. upon a Bill of Review are erroneous. Anne had no power under the Will to make such conveyance, being a trustee only for particular purposes, and Appellant, being only tenant for life, should not be forced to execute a deed conveying a fee simple estate. Prays that the Decree may be reversed and Thomas and Mary Lomax ordered to answer. *Signed* by Appellant; *Countersigned* by Wi. Williams and Mich. Newnam. L. J., XV. 220. [The Cause was heard on 23 Feb. *Sir William Williams* (for Appellant) opens the Case. *Sir Thomas Powys* (for Appellant): She did not convey. It was a personal trust in the woman. *Solicitor General* (for Respondent): The Court had a power to do this or nothing, and it is only to enforce Articles performed on our parts. *Mr. Finch* (for Respondent): Conveyances pursuant to the Articles were drawn and executed. *Sir William Williams* heard in reply. Decree affirmed. (MS. Min.; L. J., XV. 245). For further proceedings see Notes to Annex (*b*) below.]

Annexed:—

(*a*.) 11 Feb. 1692–3. Answer of Thomas Lomax. The Articles and Conveyances were drawn by Mr. Appleton, a lawyer, the Appellant's brother-in-law. The Conveyance of the Bovingdon lands was to the same uses as in the Shenley lands. Appellant released all his right to the timber in Bovingdon, but delayed to seal the deed of Bovingdon to Respondent, who thereupon entered and laid out above 3,000*l*., and Anne entered on the Shenley lands and enjoyed them till 1691, when she died intestate. On the contest between Appellant and Respondent for letters of administration, they agreed that Appellant should seal the deed of Bovingdon and Northchurch which Anne had sealed, and have the Shenley and other lands of 192*l*. 5*s*. 0*d*. a year, and the other lands of Bovingdon and Northchurch of 186*l*. a year, which were not comprised in Anne's conveyance; that Shenley manor and woods should be equally divided between them, and the timber on the three estates valued and allowed for by him that had most; that the naming of Austin's House in Anne's deed of the Bovingdon lands, instead of Whites in the Articles (representing the excess in the exchange of lands, alleged in the Appeal), should be no difference; that Respondent should have his share of the personal estates, and that the agreement should be confirmed in Chancery. On these terms Appellant obtained letters of administration, and possessed himself of all the personal estates, which done, he refused to seal the deed, or account to Respondent for his share of the personal estate. Prays that the Appeal may be dismissed, as oppressive, with costs. *Unsigned* by Respondent. *Countersigned* by Jam. Stedman. *Endorsed* as brought in this day.

(*b*.) 25 Nov. 1693. (Appeal lately depending.) Petition of Appellant. The Decree in Chancery, which has been affirmed by the House, is inconsistent with itself and cannot be performed

unless explained by their Lordships, the former part ordering Conveyances to be executed pursuant to the Articles of Exchange and Agreements, and the latter part directing Appellant to surrender to the Respondent Thomas and his heirs absolutely all the Bovington lands, as well those which were to be exchanged as the others, which were only to be divided by the Will and Agreement, and by the Decree, which is for a larger estate than agreed by the Articles or prayed by Respondent in his Bill. By the said Decree Respondent and Appellant were mutually to execute conveyances, and Respondent was to account for the moiety of their father's personal estate; but the Lords Commissioners and the Court of Chancery since have restrained and altered that part of the Decree, by ordering a suspension of all acts decreed to be done mutually by Respondent and Appellant, and requiring the latter fully to perform all things on his part, and then Respondent to do what the Court of Chancery shall direct. Prays that the Decree may be explained in these matters, and to have the benefit of the Decree so far as is consistent with their Lordships' affirmance. *Unsigned* by Appellant. *Countersigned* by Mich. Newnham and Thomas Price. L. J., XV. 307. [Counsel for both sides were heard on this Petition on 9 Dec. *Sir William Williams* (for Petitioner): The Decree is inconsistent. By the Decree there are Articles between them. The limitation has a reference to the Articles preceding. The Decree says those Articles are to be executed on both sides. The other part of the Decree says that my client shall surrender the copyhold estate. The inconsistency is this, of conveying the copyhold estate contrary to the Articles. Speaks to the subsequent Order in March last. The Order is contrary to this whole matter. *Mr. Price* (for Petitioner): Here is a reciprocal Decree to be performed, and yet by this Order we are set at liberty. *Counsel* withdraw. *Moved* that they may not be let into the inconsistency of the Decree, which is affirmed. The House having affirmed the Decree, they ought not to be heard to it. *Counsel* called in and told that they are confined only to the subsequent Order in Chancery, and to showing how it is inconsistent. *Mr. Price* is heard. The Order complained of is read. *Mr. Stedman* (for Thos. Lomax): This Order is very regular. We have prosecuted to a commitment, and we come to the Court, and he has possessed that estate. We tell the Chancery how much we are grieved. We offer to be examined and do what the Court thinks fit, and this is to hinder us from the deeds and estate. *Sir Thomas Powys* (for Thos. Lomax): This Order is made only to have the matters confirmed according to the Decree. The younger brother has executed his part. He has had our estate; he has got a rehearing, and set up a new Bill by the tenant and borne all the suit. Five orders to commit him to the Fleet, and then he appeals. *Counsel* withdraw. Petition dismissed with 50*l.* costs, and Counsel who signed it, to attend on the 11th inst.—On 11 Dec. *Mr. Price* and *Mr. Newnham* were reprimanded by the Speaker for signing the Petition, and submitted and asked pardon of the House. (MS. Min.; L. J., XV. 318, 319.)]

692. Feb 8. Alnage (Customs Collection) Bill.—Petition of Frances, Duchess Dowager of Richmond and Lenox, and others, Farmers of the ancient Duties of Subsidy and Aulnage on Woollen

HOUSE OF LORDS MSS.

1692–3.

Manufactures under the said Duchess and her trustees. Petitioner the Duchess has a legal right and title, in consideration as well of marriage as by purchase, to the duties for a long term of years yet to come, under a yearly rent payable to the Crown, and the other Petitioners are Farmers of those duties under the Duchess for a great fine and other valuable considerations and a great yearly rent for part of the said term. A Bill has been sent up from the Commons for taking away those duties and for laying rates on such part only of the woollen manufacture that shall be exported, as satisfaction for the duties so abolished. Petitioners' petition to the Commons to be heard against the Bill as to the point of compensation was rejected without a reading. Pray to be heard by Counsel at the Bar against the Bill, the rates being in no wise an adequate compensation. *Signed* by the Duchess and also by John Eyles, Joh. Hayes and A. Stephens. [Read this day and Counsel ordered to be heard on the 13th. (L. J., XV. 220.) Counsel were heard at the Bar on this and the annexed Petition on the 22nd (*ib* 243). *Sir William Thompson* (against the Bill)*: It has been an ancient right of the Crown these 300 years. This was worth 5,000*l.* per annum. *Sir Thomas Powys* (for Duchess of Richmond against the Bill): They have ordered no officers to receive this at the Custom House. There is no fee for such officer, nor any way for us to come at it but by infinite suits. *Mr. Ward* (for the Farmers against the Bill): She has made a good estate to these men. *Sir William Williams* (for the Merchant Exporters against the Bill) is heard. *Mr. Crispe*, Common Serjeant (for Merchants against the Bill) is heard. *Mr. Darnell* (for the Bill): We make no doubt but there is a duty of Alnage and the Duchess has a right to it, and yet we hope to answer it all. The Customs will not be at an end. There are many thousands oppressed in this case. There is 2,000*l.* added by this Bill to the duty of Alnage. *Sir Bartholomew Shower* (for the Bill †): The Collectors spend great sums in the country. It is for the benefit of the King to have it at the Custom House. The King's interest is preserved. The Duchess will have a greater interest than now. There is 800*l.* or 900*l.* per annum more than the Farmers make of it. Counsel against the Bill heard in reply. *Edward Cooke*, *Nicholas Harding* and *Tho. Lowe* sworn to the truth of the Papers delivered, as an account of the Custom House and the account of the Farmers. Counsel withdrew, and the Bill was then read 2ª and committed to a Select Committee. (MS. Min.; L. J., XV. 243.) There is no record in Com. Book of the Committee having met. The Bill dropped with the Session, though the Commons sent two Messages on March 4 and 10 to remind the Lords of it. (*Ib.* 274, 283.)]

Annexed:—

(*a.*) 13 Feb. Petition of divers Merchants, Exporters of Woollen Manufactures, on behalf of themselves and others. The subsidy and duty of Alnage is by the law expressly imposed on the maker of cloth or first seller, as appears by the several statutes relating thereunto, and no other person is by those statutes made liable to pay it The Bill to transfer that duty to the Custom House, there to be paid by the Merchants, imposes a new tax on Petitioners and, contrary to the rules of trade, clogs the export and eases the home consumption. The exportation of woollen manufactures, which constitutes the greatest part of the trade and wealth of the Kingdom, has much decayed of late

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* *See* No. **686.**

† On behalf of the Clothiers. L. J., XV. 243.

years, as our neighbours undersell us in foreign markets. They will do so much more if the manufactures exported are burdened with greater duties. Pray that no additional duty may be imposed on the exportation of woollen manufactures, and to be heard by Counsel against the Bill. *Signed* by the following:—

W. Gore.	John Buckworth.	Mark Winn.
Walter Kent.	A. Goodyeare.	Tho. Niccolls.
Will. Crowch.	Edmd. Prideaux.	Tho. Uvedale.
Tho. Shepard.	John Wood.	Jacob Delillers.
Edw. Des Bouverie.	John Pouldon.	Geo. Walcott.
Wm. Pococke.	Alexr. Jacob.	John Turner.
Roger Jones.	John Skinner.	Charles Peers.
Fran. Boynton.	J. Huskin Stiles.	Richard Young.
Jeremy Elwes.	Henry Kiffin.	Charles Price.
Richard Bancke.	Thomas Hunt.	Ed. Vernon.
John Bludworth.	P. Burrell.	Cha. Balle.
Edward Brown.	Wm. Des Bouverie.	J. Hopegood.
Peter Van Sittart.	Thomas Carbonnel.	John Morgan.
Tho. Wethered.	Will. Scawen.	Wm. Upton.
Wm. Kiffin.	Thomas Axton.	James Blake.
Bedingfd. Heigham.	Tho. Death.	Franc. Eyles.
Nehemiah Lyde.	Hugh Strode.	Nathl. Gould.
Pr. Houblon.	Tho. Strode.	Peter Delmé.
Michael Godfrey.	James Dolliffe.	Edw. Salwey.
Tho. Hartopp.	Richd. Holder.	John Godschall.
Tho. Palmer.	John Boyd.	Timothy Larmey.
John Emilie.	Willm. Raphe.	George Treadway.
Will. Benson.	Wm. Hamond.	John Whalley.
Dan. Wigfall.	Fra. Gosfright.	Richard Nicoll.
Robt. Raworth.	Nicholas Cooke.	Richard March.
Robert Bodington.	Wm. Hedges.	Jn. Carbonnel.
Samuell Foote.	John Deleau.	

693. Feb. 8. Outlawries Bill—Corrected * Draft of an Act for the relief of the Subject against vexatious arrests upon Outlawries and Writs of Quo minus.

§ i. Whereas divers persons have been unjustly vexed and oppressed by undue and irregular prosecution to the outlawry and by being arrested upon the writ or process commonly called a Quo Minus out of the Court of Exchequer. For remedy whereof Be it enacted by the King and Queen's most Excellent Majesties, &c., That from and after

all sheriffs and other officers and ministers of Justice to whom the execution of any writs or process doth belong or appertain, shall let out of prison all manner of persons by them or any of them arrested or being in their custody by force or virtue of any writ of Capias utlegatum for any utlary upon any process to answer to any personal or popular action, indictment or information, for any offence or crime (except treason, felony, misprision of treason, misprision of felony and Præmunire), upon reasonable sureties of sufficient persons to appear at the day and place of return of the said writ of Capias utlegatum; And if any Sheriff or other Officer or Minister do return upon any person Cepi corpus, then he shall be chargeable to have the body of such person at the day of the return of the said writ in such form and

* The alterations in Clauses iii. and iv., shown by italics for additions and square brackets for omissions, are evidently corrections, not amendments, as nothing was done in C. W. H. on the Bill beyond reading it through. (MS. Min., 10 Feb.)

HOUSE OF LORDS MSS. 1692–3.

manner as he should have been if he had returned Cepi corpus upon any mesne process before the making of this Act.

§ ii. And be it further enacted by the authority aforesaid, That all and every person or persons so outlawed upon mesne process in any personal action, shall be admitted to appear by Attorney to reverse such outlawry, he or they having first put in sufficient bail to prosecute the reversal of the said outlawry and to appear in a new action, to be commenced by the plaintiff for the cause mentioned in the first Action, and also to pay the condemnation, if the plaintiff shall commence his suit against him before the end of the next Term after the reversal of such outlawry, and also to pay such costs as the Court shall think fit to assess for the charges and expenses which the plaintiff was put to by prosecuting him or them to the outlawry.

§ iii. And be it further enacted by the authority aforesaid, That all and every person and persons that shall be outlawed upon [mesne] process [sued upon] *to answer to* any Indictment or Information (except as is before excepted) he or they may appear by his or their Attorney to assign Errors to reverse such outlawry, he or they first putting in bail in some reasonable sum to prosecute his or their Writ of Error with effect; and after the reversal of the said outlawry, if he or they do not confess or demur to the said Indictment or Information to plead thereunto and to try it at his or their costs and charges, if the matter be tryable in London or Middlesex, before the end of the next Term, and if the matter be tryable in any other County, at the next Assizes after the reversal of such outlawry.

* § iv. And *whereas Writs of Quo Minus, issuing out of the Court of Exchequer, have been oftentimes abused by Attorneys and Solicitors, by insisting upon great bail where no bail by law is required, the said Writs being general and not expressing the cause of Action.* Be it further enacted by the authority aforesaid, That from and after *the said first day of Easter term*, if any person or persons be arrested by any writ or process called a Quo Minus issuing out of their Majesties' Court of Exchequer, That the certainty or true cause of action shall be expressed in the said writ or process, and in default thereof the party or parties so arrested shall not be compelled to give security or to enter into bond with sureties for his or their appearance at the day or place in such writ or process mentioned or contained in any penalty or sum of money exceeding the sum of forty pounds, conditioned for such appearance, but upon giving such security, the person or persons so arrested shall be discharged out of custody, and his or their appearance by Attorney at the day or place in such writ or process mentioned or contained shall be a sufficient discharge of such bond without putting in any bail. [Read 1ª this day. L. J., XV. 221.) Dropped, after being read through in C. W. H. on 10 Feb.† (MS. Min.; L. J., XV. 223.)]

694. Feb. 10. E. Gainsborough *v.* Countess Dowager of Gainsborough.—Petition and Appeal of Baptist, Earl of Gainsborough, an Infant of about 7 years (by Dame Susanna Noel, widow, his mother and guardian), and John Noel, Esq. Wriothesly Baptist, late E. Gainsborough, being seized in fee from his father of certain lands in Gloucestershire, Rutland and Middlesex, worth about 5,000*l.* a year, by his Will in 1690

* This Clause was added to the King's Bench (Malicious Informations) Bill in C. W. H. on that Bill. *See* No. **701.**

† The endorsement states as follows: "2ª vice lecta, 10 Feb. 1692. Committed, and upon debate, House resumed and the House went on the other Bill of Outlawries in a Committee of the Whole House." *See* No. **701.**

devised all the lands descended to him from his father and grandfather, (subject to annuities to several of his servants and 5,000*l.* to his sister, charged on the Rutland lands, and half a year's wages to his other servants), to Appellant, the Earl, in tail male, remainder to John Noel in tail, remainder in fee to his two daughters, and charged the Rutland lands also with all his debts at the time of his death, and soon after died possessed of a personal estate of above 10,000*l.*, and indebted about 20,000*l.*, leaving above 2,000*l.* a year inheritance to descend to his two daughters. Respondent proved the Will without making any claim to the personal estate otherwise than as Executrix, but in 1691 brought a Bill in Chancery * against Appellants for the personal estate, suggesting that Testator's lawyer had omitted, by fraud or negligence, to insert in the Will a devise of it to her, and praying that the debts might be paid out of the real estate in Rutland. Appellants answered that, besides the annuities and the 5,000*l.* and such of Testator's debts as his personal estate would not suffice to pay, the premises devised to them were subject to a rent-charge of 2,000*l.* a year to Respondent for life, and 400*l.* a year to one Mr. Boyle in fee, that the two daughters also claimed 200*l.* a year for maintenance till the age of 12, and afterwards 400*l.* a year till 18, and 15,000*l.* for their portions, that, even if the personal estate were in the first place applied towards payment of the debts, little of the real estate would remain, and that no averment, foreign to the Will in writing, ought to be allowed to impeach it. The Lords Commissioners on 28 Jan. last decreed the real estate to be charged in the first place with the legacy and debts, the residue wanting, if any, to come out of the personal estate, and that Respondent should be reimbursed what she should pay Testator's creditors out of the lands devised to Appellants, but pay Testator's other legacies and funeral charges out of the personal estate. Pray that this Decree may be reversed and Respondent ordered to answer. *Signed* by Appellants; *Countersigned* by J. Somers and T. Vernon. L. J., XV. 223. [The Cause was heard on 27 Feb. *Mr. Ward* and *Mr. Finch* heard for Appellant, and the *Solicitor-General* and *Sir Thomas Powys* for Respondent. Several Depositions read. Counsel withdrew and the Speaker reported. Statute of Frauds and Perjuries read. Judges asked whether there is any latitude, contrary to the Statute, for personal estate? *Holt, C. J.:* I am of opinion, before this Statute, it did not (*sic*). *Treby, C. J.:* I am of the same opinion *Eyre, J.:* There is no difference between a Will for lands and personal estate. [*Atkyns*], *C. B.:* As for the point in law, I am of the same opinion with my Brethren, and for this case, it binds in equity as well as law. After debate, *Counsel* were called in, and told; and they were told that the Depositions must be read, which were read before. Newsham's Deposition read. Depositions of Jones, J. Baker, Dr. Ratliffe and J. Milborne read. After debate, Decree affirmed. (MS. Min.; L. J., XV. 252.)]

Annexed :—

(*a.*) 17 Feb. Answer of Catherine, Countess Dowager of Gainsborough (signs Cath. Gainsborrough). Testator's personal Estate was only about 5,000*l.*, and he directed his lawyer specifically to devise it to Respondent (a sufficient fund being provided by the Will for payment of all his just debts), subject to certain legacies and funeral expenses, amounting in all to 1,128*l.* 6*s.* 4*d.* Testator's debts were about 15,500*l.* Appellants endeavoured to induce several of the creditors to lay their debts on the

* *See* 2 Vernon 252.

House of Lords MSS.

1692–3.

personal estate, thus stripping Respondent thereof. The Decr is just and consistent with Testator's intention, his debts being charged on the Rutland lands, which went to Appellants. Prays that the Appeal may be dismissed. *Signed* by Respondent. *Endorsed* as brought in this day.

695. Feb. 10. Quarter Sessions (Writs of *Certiorari*) Bill.—Commons' Engrossment of an Act to prevent the delay of proceedings at the Quarter Sessions of the Peace. The text of this Bill is printed below in Roman type. The corresponding Sections of the Act of the following Session (5–6 W. & M. c. 11. Fol. Ed.) omit the words included in square brackets and add those in italics, viz.:—

Clause 1. (Sect. i. of Act.)

Whereas it is experienced that, notwithstanding the Statutes made in the one and twentieth year of the reign of King James the First, and in the *thirteenth and* fourteenth [year] *years* of King Charles the Second, concerning the granting of Writs of Certiorari, to remove Indictments of riot, forcible entry, assault and battery and [about the enlarging and amending of highways and bridges] *other Presentments and Indictments* out of the Courts of the General or Quarter Sessions of the Peace [of] *in* the Counties or places [in which] *wherein* such Indictments [and proceedings thereupon] have been found [or] *and proceedings thereupon* recorded, into their Majesties' Court of King's Bench, divers turbulent, contentions, lewd and evil-disposed persons, fearing to be deservedly punished where they and their offences are well known, have not only obtained Writs of Certiorari for removing such Indictments found against them as aforesaid, but also [upon false suggestions and surmises, and for want of true copies of such Indictments first showed to the Courts or persons by whom such Certioraris are granted, do frequently procure Writs of Certiorari to the said Justices of the Peace directed to remove Indictments of those and] *Indictments for* sundry other trespasses, frauds, nuisances, [forgeries, perjuries, extortions, unlicensed alehouses and other] contempts and misdemeanours [out of the said Courts of Sessions of the Peace into the said Court of King's Bench often] after issue joined, and [when] the Prosecutors [are] ready attending with their Counsel and witnesses to try the same before the said Justices of the Peace in their said Sessions [of the Peace, on purpose to weary out the Prosecutors, well knowing that few or none will undergo the travel or charge of prosecution of such Indictments so removed by bringing the parties so indicted to trial], to the [intolerable trouble and vexation] *great discouragement* of the Prosecutors and [discouragement] of such Constables and [others who] *other officers as*, according to their duty, present persons for those and such like [trespasses], offences, *trespasses* and misdemeanours, [whereas the offenders might have and receive due and equal justice of the Justices of the Peace in the counties and places where the Indictments are found, but by means of removal thereof as aforesaid, such offenders for the most part escape unprosecuted and unpunished, and the King loseth the fines which ought to be and should have been imposed upon their conviction, if such Indictments had been prosecuted and not removed]; For remedy whereof, and that such offenders may be brought to condign punishment; Be it [therefore] enacted by the King and Queen's Most Excellent Majesties, &c., That *in Term time* no Writ of Certiorari whatsoever *at the prosecution of any party indicted* be *hereafter* granted, awarded or directed out of the said Court of King's Bench [or otherwise] to remove any *such* Indictment or Presentment of trespass, [assault and battery, riots, unlawful assemblies, misdemeanours, crimes and contempts whatsoever, or any order or proceedings relating thereunto,] *or misdemeanour, before trial had*, from before the said Justices [of Peace] in the said Courts of [Quarter Sessions or Courts of General] *General or Quarter* Sessions of the Peace, unless [a true copy of such Indictment, Presentment, order or proceedings be first taken out, that the nature and matter thereof may be known, and unless] such Certiorari shall be granted or awarded upon motion of Counsel [thereupon] and by Rule of Court made for the granting thereof, before the Judge or Judges of the said Court of King's Bench sitting in open Court, [and unless such motion, and by whom made, be mentioned to be made on the back of the Writ and Writs of Certiorari,] and that [when any Certiorari shall be granted on the behalf of the party or parties indicted, he, she or they shall] *all the parties indicted, prosecuting such Certiorari*, before the allowance thereof, [appear according to all and every Recognizance or Sessions process for their appearance at the said Quarter or General Sessions, and shall then and there also show the copy of such Indictment, Presentment or order, upon which

motion for granting the Certiorari was made, and become bound unto such person and persons which shall prosecute and present or exhibit such Presentment or bills of Indictment against them] *shall find two sufficient Mainoaptors, who shall enter into a Recognizance before one or more Justices of the Peace of the county or place*, in the sum of twenty pounds, [with such sufficient sureties as the Justices of Peace at their Quarter or General Sessions of the Peace shall think fit], with condition [to pay unto the said Prosecutors of such Bills of Indictments and Presentments, within one month after the conviction of such parties indicted, or any of them, such reasonable costs and damages as the said Justices of Peace of such counties or places where such Bills of Indictments or Presentments shall be found, in the said Sessions of Peace shall assess or allow; and that in default of any of the premises, it shall be lawful for the said Justices of the Peace to award and make out process against all persons so indicted or presented, and to proceed against them to trial, execution or otherwise upon the said Indictments in such like manner and form to all intents and purposes as they, the said Justices of Peace, should or might have done if such Writ or Writs of Certiorari had never been granted, had or made, any such Writ or Writs of Certiorari, or allowance thereof, or any of the said recited Statutes or other law, statute, custom, usage or other matter or cause to the contrary in any wise notwithstanding,] *at the return of such Writ to appear and plead to the said Indictment or Presentment in the said Court of King's Bench, and at his and their own costs and charges to cause and procure the issue that shall be joined upon the said Indictment or Presentment, or any Plea relating thereunto, to be tried at the next Assizes to be held for the County wherein the said Indictment or Presentment was found, after such Certiorari shall be returnable, if not in the Cities of London, Westminster or County of Middlesex; and if in the said Cities or County, then to cause or procure it to be tried the next Term after, wherein such Certiorari shall be granted, or at the sitting after the said Term, if the Court of King's Bench shall not appoint any other time for the trial thereof; and if any other time shall be appointed by the Court, then at such other time, and to give due notice of such trial to the Prosecutor, or his Clerk in Court; and that the said Recognizance and Recognizances, taken as aforesaid, shall be certified into the said Court of King's Bench, with the said Certiorari and Indictment, to be there filed, and the name of the Prosecutor (if he be the Party grieved or injured), or some public Officer, to be indorsed on the back of the said Indictment; and if the person prosecuting such Certiorari, being the Defendant, shall not, before allowance thereof, procure such Mainoaptors to be bound in a Recognizance as aforesaid, the Justices of the Peace may and shall proceed to trial of the said Indictment at the said Sessions, notwithstanding such Writ of Certiorari so delivered.*

Clause 2. (Sect. iii. of Act.)

Provided always and be it enacted *by the authority aforesaid*, That [only between Trinity and Michaelmas Terms yearly, and not otherwise] *in any of the Vacations*, Writs of Certiorari may be granted by any [Judge] *of the Justices* of their Majesties' Court of King's Bench, [or others used to grant the same, upon sight of a copy of any Indictment of trespass, order or proceedings, which shall be taken or made before any Justices of Peace in such their Quarter and General Sessions of Peace only, which shall happen to be held between the said Trinity and Michaelmas Terms yearly, and not otherwise; and that the name of the Judge or other granting such Writ or Writs of Certiorari, and the day the same is granted, be endorsed thereupon] *whose names shall be endorsed on the said Writ, and also the name of such person at whose instance the same is granted*, [but] *and* that the party or parties indicted, *prosecuting such Certiorari*, shall, before the allowance of such Writ or Writs of Certiorari, [appear according to all and every Recognizance or Sessions process for their appearance at the Sessions of the Peace as aforesaid, and become bound to the Prosecutors] *find such Sureties*, in such sum and with [like sureties and under] such conditions as [aforesaid] *are before mentioned and specified in this present Act.* [And that in default of any of the said premises, it shall be lawful for the said Justices of the Peace to award and send out process, and to proceed against every person and persons indicted to trial, execution and otherwise in such like manner and form, to all intents and purposes, as the said Justices should or might have done if such Writ or Writs of Certiorari last mentioned, had not been granted, had or made, the said Writ or Writs of Certiorari last mentioned, or the allowance thereof, or any statute, custom, usage or other matter, cause or thing whatsoever, to the contrary in any wise notwithstanding.]

Parchment Collection. [Brought from the Commons this day; read 1ª the next. (L. J., XV. 223, 225.)] The Clerks of the Crown Office

HOUSE OF LORDS MSS. 1692-3.

having petitioned against the Bill,* Counsel were ordered to be heard on 18 Feb. (*Ib.* 234.) No further proceedings. The Bill dropped with the Session, though the Commons sent a message on 28 Feb. to remind the Lords of it. (*Ib.* 253.)]

696. Feb. 11. Mainstone *v.* Mainstone.—Petition and Appeal of John Mainstone, Gent. Petitioner's late uncle, William Mainstone, of Woodberry Hall, Cambridgeshire, on his marriage with Penelope, Sir Thomas Jones' youngest daughter, with whom he was promised a portion of 600*l.*, settled upon her the manor of Woodberry, worth 600*l.* a year, which he had purchased from the late Sir John Jacob, Bart., with intent that it should come to Petitioner, if there were no children. Penelope and her friends, however, induced him to give a bond of 10,000*l.* to Sir Thomas, on 19 Jan. 1673, conditioned to leave to her, if she survived him, a real or personal estate, or both, of the value of 3,000*l.* He died intestate, leaving a personal estate of 1,200*l.* and a real estate much encumbered. Petitioner being then an infant, administration was granted to William Clough, Esq., who possessed himself of the personal estate. In 1688 Sir Thomas and Penelope brought a Bill in Chancery against Petitioner, the mortgagee, and Clough, praying for satisfaction of the bond by a sale of the real estate, and alleging that Mainstone could not at the time of the bond make a settlement upon his wife, by reason of an extent due from Sir John Jacob to Charles II., and other incumbrances. Petitioner then brought a Bill against Penelope, Clough and others, for a discovery and account. On 26 Nov. 1689 the Lords Commissioners, although the marriage portion was never shown to have been paid, and the extent was paid off by Mainstone after the settlement, which payment should protect the real estate against the bond, decreed to Penelope the 3,000*l.* in full, with interest out of the manor at 6 per cent. from her husband's death, computed to 1,305*l.*, the manor to be sold for payment thereof and of Mainstone's debts, and of 1,100*l.* to Clough, and dismissed Petitioner's Bill barely on Penelope's and Clough's offering to be examined on Interrogatories. Petitioner, the heir-at-law, will thus be left not 500*l.* to support himself and family, his uncle's debts being about 8,000*l.*, besides the extent and Penelope's claims. The Court have decreed above 4,300*l.* to be paid her in consideration of 600*l.* not proved to be paid, and 1,100*l.* to Clough, though a great part thereof is but debt on simple contract. Although in some cases Courts of Equity have decreed a just bond debt to be paid out of a real estate, they have never charged a real estate with the payment of a book debt, such as that of Clough. Prays that the Decree and Dismission may be reversed, and proceedings stayed, and Penelope and Clough ordered to answer. *Signed* by Appellant; *Countersigned* by Wm. Whitelocke and Tho. Goodinge, who certify that Petitioner has just cause to appeal. L. J., XV. 224. [The Cause was heard on 2 March, *Mr. Ward* being heard for Appellant, and *Sir Thos. Powys* for Respondents. Decree affirmed, with 40*l.* costs. (MS. Min.; L. J., XV. 256.)]

Annexed:—

(*a.*) 17 Feb. Answer of Penelope Mainstone, Widow. Respondent's father was the late Chief Justice, and her late husband was a merchant in the East Indies, who married her on his return. The portion was duly paid to him, and he entered voluntarily into the bond, by which he promised to leave a real

* *See* No. **706.**

estate worth 3,000*l.* to her and to their children, if any, two-thirds of the rest of his estate at death, if she survived him, and if not, two-thirds of his entire estate. He afterwards mortgaged the lands for 6,000*l.* for 500 years, leaving the reversion in fee to himself, and having no children, he intended his real estate should be sold to pay his debts, and that Respondent should have the rest in recompense for her portion, and accordingly, by his Will of 10 March 1681, devised to her all his real and personal estate and made her his Executrix, but before executing it as required by the late Act he died, and administration was granted to Clough, one of his creditors, who possessed the personal estate, and the mortgagee entered on the real estate. Respondent's husband, finding on his return to England that his brother was dead, having married a servant maid, by whom he left a son, the Appellant, and that Appellant's mother was married again to a country tailor, maintained Appellant as an act of charity and apprenticed him to a chirurgeon in Cambridge, but so far from intending to leave him his estate, he gave him only 200*l.*, half to be paid him when he was free of his trade, and the rest when he married and set up. On his death, Appellant left his master before serving his time, and by agreement with the mortgagee, entered into the lands and took profits amounting to above 2,000*l.*, without paying anything to the creditors. Respondent, not having received a penny out of her husband's estate since his death, brought her Bill for an account and satisfaction of the bond. Appellant submitted to the Decree by contracting for sale of the estate for 12,500*l.*, and agreed that the 11,942*l.* 12*s.* 3*d.*, reported by the Master, should be paid out of the purchase money, and the rest paid to himself, with which arrangement he declared himself content. Prays that the Appeal, which is frivolous and vexatious, may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Powys. *Endorsed* as brought in this day.

(*b.*) 17 Feb. Answer of William Clough, Esq. Appellant's uncle induced Respondent to become bound with him for debts amounting to above 700*l.*, but died before anything was paid. Respondent was forced to administer his estate, as Penelope declined to do so. Respondent was examined on Interrogatories, and gave a full discovery and account, and the Master reported 84*l.* 16*s.* 11*d.* due to him out of the real estate, which sum is not for any book debts or debts on simple contract, as pretended. Appellant has already had far more out of the estate than he was entitled to. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Tho. Jones. *Endorsed* as brought in this day.

697. Feb. 13. Danby's Estate Act.—Consent of Joseph Danby, Esq., to the passing of a Bill for the settling a Jointure on the wife of Anthony Danby, Esq., and for making provision for his brothers and younger children, and for payment of his debts. *Dated* 18 Dec. 1691. *Attested* by Robt. Laton, Thomas Cust, and William Danby. [Read in Committee this day. (Com. Book.) The Bill was brought from the Commons 17 Jan., and read 1ª on the 26th; Royal Assent 14 March. (L. J., XV. 187, 202, 289). 4–5 W. & M. c. 25. in Long Calendar.]

698. Feb. 14. Sir E. Smith *v.* Welch.—Petition and Appeal of Sir Edward Smith, Bart., and Edward Smith and others. Thomas

HOUSE OF LORDS MSS.
1692–3.

Pepys, Esq., under whom Petitioners claim, being seized in fee of Merton Abbey House and certain lands on both sides of the river of Merton Abbey, and also of three mills called Merton Mills and the stream, with all rights of fishing, &c., leased the mills on 10 May 1669 to the late Jonathan Welch for 51 years at 50*l.* a year rent. The inheritance of the premises and the rent reserved upon the lease came to Petitioners, who, with all those under whom they claim, have time out of mind enjoyed the rights of fishing, making erections, &c., so far as their lands extended, so as the same did not hinder the stream coming to the mills. Respondents alleging that a stone bridge over the water and an engine for catching fish, both of which were there when the lease was made, obstructed the stream, Petitioners removed both at their own expense, and afterwards built a small mill of their own a quarter of a mile from the said three mills. Thereupon Respondents in 3 Will. & Mary brought an English Bill in the Exchequer to hinder their building the new mill, pretending they had lost the original lease, and praying that a copy might be taken as evidence. The Court, on 30 May last, ordered an Issue to be tried at the Surrey Assizes whether Respondents were damnified. A verdict having passed for them with 60 marks against the Petitioner, Edward Smith, who was ordered to take the whole defence upon him, the Court on 26 Jan. last decreed the new mill to be pulled down and an injunction to issue against building in the future. The Issue directed ought to have been, whether enough water was left for the old mills, after building the new one. Pray that the Order and Decree may be reversed, and Jonathan and Joseph Welch ordered to answer, and that proceedings may be stayed. *Signed* by above-named Appellants; *Countersigned* by Tho. Trevor and J. Smith. L. J., XV. 228. [The Cause was heard on 3 March. *Mr. Ward* (for Appellant) opens the Case. There were ancient erections in the river, which were pulled down. *Solicitor-General* (for Appellant) is heard. *Sir Bartholomew Shower* (for Respondent): We had a verdict; then they would have a new trial. The Court gave it them on the same issue, but that they would not do. *Mr. Finch* (for Respondent): We are hindered from using as much water as we had before. *Counsel* for Appellants heard in reply. Decree affirmed. (MS. Min.; L. J., XV. 272.)]

Annexed :—

(*a.*) 21 Feb. Answer of Jonathan Welch and Joseph Welch. Respondents' late father was possessed for a long term of years of the Three Mills, one of them being a Brazeile Mill, another a Cullin Mill and a third a corn Mill, under a lease from one Ellis Crispe, deceased, and spent large sums in repairing them. Crispe afterwards conveyed the reversion to Pepys, at whose instance Respondents' father surrendered his old lease and took a new one. The reversion and rent belong to the Appellant Edward Smith. Appellants, under pretence of erecting a small eel-gin, made preparations for building a fulling or other mill, which would obstruct the stream to the prejudice of Respondents, who have laid out at least 4,000*l.* on their mills. The issue was tried by a special jury of gentlemen of quality, and proof was given that Respondents, in consequence of the new mill, could not grind so much by at least 7 cwt. of log-wood a week, at 5*s.* a hundred, as they did before. The new mill does not stand on the sight of the former bridge, or nearly as far from Respondent's mills as is pretended. Pray that the Appeal may be dismissed with costs, and that proceedings may not be stayed. *Signed* by Respondents; *Countersigned* by Sam. Dodd and Rich. Turner. *Endorsed* as brought in this day.

(*b.*) 21 Feb. Petition of Respondents for a day for hearing. L. J., XV. 241.

(*c.*) 2 March. Petition of Respondents for an earlier day for hearing than the 9th inst. L. J., XV. 256.

699. Feb. 14. Bishopric of London (Fulham Estate) Act.—Amended Draft of an Act for exchanging of several small parcels of land in the parish and manor of Fulham, belonging to the Bishopric of London, and part of the Bishopric of London, for other lands of the like value to Charles, Earl of Monmouth and his heirs. The Lords' Amendments, so far as material, were to insert in the spaces left blank the names of the trustees,* the situation of the lands to be exchanged,† and the names of those who were to approve of them; to omit in the trust a part directing the trustees, after the exchange should be effected, to convey the premises to the Earl, and to add a provision requiring them to lease them, as the Bishop should direct (Sect i.); to fix three years as the period for the Earl to convey other lands in exchange (Sect. iii.), and to add the Clauses corresponding with Sections v. and vii. [Read 1ª this day (L. J., XV. 228). Amended in Committee‡ on Feb. 22 (E. Rochester in the Chair) and Feb. 23 (E. Stamford in the Chair). The Commons' two Amendments (C. J., X. 841) are purely verbal. Royal Assent 14 March (L. J., XVIII. 289). 4-5 W. & M. c. 38. in Long Calendar.]

Annexed:—

(*a.*) 23 Feb. Draft, marked ✠, altering the terms of the trust in Sect. i. by substituting the words from ("Upon the trust following") to the end of the Section. [Agreed to in Committee 22 Feb. (Com. Book), and reported this day (L. J., XV. 246).]

(*b.*) 23 Feb. Amended Draft of Clause, marked A, empowering the Bishop to let Great Hurlingham Field for building. As amended, it forms Sect v. of the Act. [Agreed to in Committee 22 Feb. (Com. Book) and reported this day (L. J., XV. 246).]

(*c.*) 23 Feb Amended Draft, marked B, of two Saving Clauses. The first of these, a general Saving Clause, forms Sect. vii. of the Act; the second, which relates to Hellbrooke Common, and forms Sect. viii., is a redraft of the last Clause in the Bill. [Agreed to in Committee and reported this day. (Com. Book; L. J., XV. 246) In Committee this day Mr. Robert Limpeny, John Plucknet and John Storer informed the Committee that they had had a vestry, and desired the drawing of the Hellbrooke Clause,§ as being for the advantage of the poor. (Com. Book.)]

700. Feb. 14. Duchy of Cornwall Bill.—Commons' Engrossment of an Act to enable their Majesties to make grants, leases and copies of offices, lands and hereditaments, parcel of their Duchy of Cornwall, or annexed to the same, and for confirmation of leases and grants already made. Identical with the previous Bill (No. **562**) except in some verbal particulars, and in the following passages, where the

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* The trustees first proposed were the Bishop of London, the Dean of St. Paul's, and the C. Justice of the King's Bench (Com. Book, 22 Feb.).

† Inserted in lieu of the original words ("to be situate and being within the City of London or within (*blank*) miles of the same").

‡ Com. Book of dates, where it is described as E. Monmouth's Bill.

§ A Clause empowering the Court Baron to make bye-laws for draining, &c. Hellbrooke Common was in the original Bill, and forms Sect. vi. of the Act.

HOUSE OF LORDS MSS.

1692–3.

Act of 1694 omits the words in square brackets and adds those in italics, viz. :—

Sect. i. of Act.

Line 18 . . . (other than honours, lordships or manors [not formerly leased, and other than one lease made by their Majesties in the first year of their reign to William Cock, of one fulling mill and two acres of land, and of one other tenement and land, with the appurtenances, parcel of the manor of Treverbin Courtenay *] shall be good and effectual in law. . . .

Sect. iv.

Lines 3, 4 . . . for the time being, *or Chancellor and Under Treasurer of the Exchequer for the time being*, or with any other person. . . .

Line 5 . . . for the time being *or Chancellor of the Exchequer* shall authorise . . .

Line 8 . . . for the time being *or Chancellor of the Exchequer for the time being ;* Then upon . . .

Sect. v.

Line 1 . . . and [for that the leasehold tenements belonging to the said Duchy within the County of Cornwall are but of small annual value, so that the charge of passing a lease of such small tenements as aforesaid under the Great Seal, or Seal of the Court of Exchequer, is very considerable, and discourages the tenants from frequent renewing and filling up their estates for the improvement of that revenue, Be it further enacted by the authority aforesaid, That the Lord Treasurer or Lords Commissioners (etc., as in previous Bill) . . ease and despatch of the said tenants and] *whereas within the County*, etc. . . . *authority aforesaid.* The Bill then goes on as follows :—

. . . that the whole fees, reward and charges to be paid, received or taken for the preparing, writing, drawing, obtaining, making, passing and perfecting of any such lease or grant, and for the Petition, Answer, Reference, Report, Particular, Certificate, Contract, Warrant, Inrollment and Entry thereof, and for every other matter or thing relating thereunto, or touching or concerning the obtaining, passing and perfecting of any such lease or grant,† shall not exceed the sum of ten pounds for every ‡ lease, and four pounds for every copy over and besides the fine payable to their Majesties for or in respect of such lease or grant, the said respective sums, not exceeding ten pounds and four pounds, to be ascertained and to be paid,§ distributed and divided unto and amongst the several and respective officers, clerks and persons concerned and employed in the preparing, passing and perfecting of such lease or grant, in such proportion as the said fees formerly and hitherto were and are received.

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* The Lords added here (" which said lease is neither confirmed nor avoided by anything in this Act "). C. J., X. 845.

† The Lords inserted here (" where the fine to their Majesties does exceed forty pounds, shall not exceed the sum of twenty pounds, and *where the fine to their Majesties does not exceed the sum of forty pounds.*") C. J., X. 845. The words in italics, and the two other amendments below, had been proposed by Mr. Bertie. *See* Annex (*b*).

‡ The Lords inserted here (" such "). The amendment is given wrongly in the Amendment Paper (Annex (*b*) below) and in C. J., X. 845.

§ The Lords inserted here (" as aforesaid, and "). C. J., X. 845.

The rest of the Bill from this point (Line 15 of Sect. v.) agrees with the Act, except in reading ("or persons") instead of ("and stewards") in line 16 and ("persons") instead of ("stewards") in lines 17 and 19.

Parchment Collection.—[Brought from the Commons this day, read 1ª on 18 Feb. and 2ª on the 20th and committed to a Select Committee * (L. J., XV. 229, 235, 237), which met on 21 Feb. (E. Stamford in the Chair); on 22 Feb. (E. Rochester in the Chair); on 24 Feb. (M. Halifax in the Chair); on 27 Feb. and 6 March (E. Bridgewater in the Chair), but each time only to adjourn; and again on 7 March (E. Bridgewater in the Chair), when the Bill was read by paragraphs. *Mr. Trevannell* and others are heard to the first enacting Clause. Part of the Act 1 Jac. II. is read. Mr. Harbord's Report, 25 Aug. 1689, to the Commissioners of the Treasury, concerning Cock's tenement, is read. They withdraw. Then the first amendment noticed above was made. *Mr. Williams* speaks against the last Clause, which abates the Officers' Fees. Then the last three amendments noticed above were made, and the Bill was ordered to be reported. (Com. Book, 7 March.) It was reported with these amendments, read 3ª and passed, and returned to the Commons the same day. On 8 March the Commons agreed to all the Lords' Amendments except the second, to which they disagreed, and appointed a Committee to prepare Reasons (C. J., X. 845). Of the four Reasons reported by this Committee only the last was agreed to by the House (*ib.* 847); and at a Conference with the Lords on 10th March, the latter insisted on their amendment, and appointed a Committee to prepare Reasons (L. J., X. 283–4). No further proceedings.]

Annexed:—

(*a.*) Clause endorsed "A Clause for reducing the usual fees of twenty pounds taken for the passing a lease in the County of Cornwall to ten pounds." It is a copy of the Clause in the Commons' Engrossment corresponding with Section v. of the Act, and is marked where the amendments proposed in Annex (*b*) are to come in.

(*b.*) 27 Feb. Clause endorsed, Mr. Bertie's Clause, to be added to the Bill at the Committee 27 Feb. 1692. Identical with preceding, but embodying three proposed amendments, for which see footnotes to text above.

(*c.*) 7 March. Lords' Amendments to the Bill. The second one is noted "disagreed" and the rest "agreed." *See* notes to text of Bill above. *Endorsed* are the words: "Parl. Rot. 6, 16 R. 2." [Made in Committee and reported this day (Com. Book; L. J., XV. 278).]

(*d.*) 10 March. Commons' Reason for disagreeing to the Lords' second amendment, concerning fees to Officers, L. J., XV. 283. *In extenso.* [Reported from the Conference this day. (*Ib.*)]

(*e.*) 10 March. List of Lords' Committee appointed this day to draw Reasons for insisting on said Amendment. *Noted:* Conference. The List differs from that in L. J., XV. 283 in omitting the Lord President.

701. Feb. 15. King's Bench (Malicious Informations, &c.) Act.—Lords' Amendments to the Bill to prevent Malicious Informations in the Court of King's Bench, and for the more easy reversal of Outlawries

* It appears from the MS. Min. that the Bill was committed to the Lords present at that time, which was the commencement of the sitting.

House of Lords MSS. 1692–3.

in the same Court. They are to add at the end of the Title the words ("and also for reforming of abuses by Writs of *Quo Minus*"), and to add at the end of the Bill a Clause (Annex (*a*.) below) for that purpose. [Reported from C. W. H. this day. (L. J., XV. 231.) The Bill was brought from the Commons on 5 Jan., and read 1ª on the 10th. (*Ib.*, 173, 178). It was referred on 14 Jan. to a Select Committee (*ib.*, 183), which does not appear to have met, and on 10 Feb. the Bill was considered in C. W. H. (E. Stamford in the Chair), after the House had been in Committee on the Outlawries Bill (No. **693**) and resumed. The Title and Preamble having been read and agreed to, progress was reported. (MS. Min ; L. J., XV. 223.) On 14 Feb. an order was made for the House to be put into Committee on the 18th, and C. J. Holt and some other Judges to attend (*ib.*, 229) ; but the C. W. H. was resumed, on motion, on the 15th, L. Cornwallis in the Chair. The first enacting Clause read. *L. C. Baron* (heard to this Clause): I have heard great complaints in this business. *Powell, B.:* I think the scope of this Bill is very well, but in some cases it is otherwise. The Clause agreed to. 2nd and 3rd Clauses read and agreed to. *Judges* heard. The other Clauses read and agreed to. A Clause read,* to be added to this Bill out of the *Quo Minus* Bill,† and the *Judges* heard on it. We think it a very good Clause. The Clause agreed to. Title read and amended. House resumed and Bill reported, with the amendments (MS. Min.), which were agreed to (L. J., XV. 231). The Commons disagreed to these amendments (C. J., X. 822), and, after a Conference, the Lords on 14 March agreed not to insist upon them, and the Bill received the Royal Assent the same day. (L J., XV. 288.) 4 W. & M. c. 18., Fol. Ed.]

Annexed:—

(*a*.) 15 Feb. Engrossed Clause, marked A, being Clause iv. of the Outlawries Bill (No. **693**). [Reported to be added to the Bill this day.]

702. Feb. 15. Judgments Discovery (Docket) Act.—Petition of Thomas Gooding and Simon Folks, Esquires, Custos Brevium et Recordorum of their Majesties' Court of King's Bench and their Under Clerks. The Bill for the better discovery of Judgments in the Courts of King's Bench, Common Pleas and Exchequer at Westminster will take away from Petitioners the searches, fees and profits of their office anciently and of right due, and give them to another office, and will also make public all judgments, to the great discredit of all borrowers of money and disadvantage of trade. Pray to be heard against the Bill. L. J., XV. 231. [The Bill was brought from the Commons on 10 Feb., and read 1ª the next day. (*Ib.*, 223, 225.) In Committee on 21 Feb., E. Stamford in the Chair, after reading the first enacting Clause, *Sergeant Goodwin* desired some amendments might be made to the Bill, as the leaving out ("debt, damages and costs"). He says he has a freehold in the office as *Custos Brevium*, and will be prejudiced in his office, if the Bill be not so amended. A Petition of Robert Warter is read.‡—After five adjournments,§ the Committee on 11 March proceeded further on the Bill, and agreed to the Preamble. *Mr. Ward* (for the *Custos Brevium*): This Bill renders the office wholly useless. 1st and 2nd Clauses read and postponed. *Mr. Ward:* Unless judg-

* Annex (*a*) below.
† Outlawries Bill, No. **693.**
‡ Annex (*a*).
§ The Commons sent a Message on 3 March to remind the Lords of the Bill. (L. J., XV. 272.)

ments be docketed, they affect no land. This sets aside part of the Act against Frauds and Perjuries. *Mr. Waller:* The Judgment stands good against the man, though not docketed. This is only that no stranger be cheated. The *L. C. Justice* [*Holt*]: This is to prefer the Docket Book, which is kept by an inferior Officer, before a Record, which is kept by an Officer of greater value. They withdraw. *Ordered* to report that there being great difficulty in the second enacting Clause, the Committee have not passed the preceding Clause, till they have the opinions of the Judges on the 2nd Clause, which they desire may be given in the House. (Com. Book.) This Report being made the same day, *C. Justice Holt* was heard. Bill read 3ª and, on Question, passed, as amended. (MS. Min.; L. J., XV. 285.) It was returned from the Commons on the 13th with the Lords' amendments agreed to with consequential amendments,* to which the Lords agreed, and the Bill received the Royal Assent on the 14th. (L. J., XV. 289.) 4 W. & M. c. 20., Fol. Ed.]

Annexed :—

(*a*.) 21 Feb. Petition of Robert Warter, Clerk of the Doggetts [Dockets] in the Court of King's Bench. Petitioner has for many years docketed the judgments into Parchment Books in an approved method for the ease of the Attorneys searching, being paid only fourpence a term, whereby he cannot make above 30*l*. a year, with daily attendance and great trouble. Prays their Lordships to consider that the method set forth in the Bill will take up four times the parchment, which amounts to more than one-third of the profits and at least six times the labour in entering, besides the heavy penalty in the Bill. [Read this day in Committee on the Bill. Com. Book.]

703. Feb. 16. Butter and Cheese (Searching and Weighing) Act.—Petition of several Cheesemongers of London on behalf of themselves and others trading in Butter and Cheese. Pray to be heard against the Bill to prevent the abuses committed by the traders in Butter and Cheese, which will be very prejudicial to Petitioners and of ill consequence to the public. *Signed* George Harvey, John Moore, John Boys, Rob. Adams, Dan. Scott, Henry Burton, Rich. Joyes, Champion Ashby, Jer. Ives, John Jackson, B. Smyth, John Rous, Thos. Rogers and Roger Hazard. L. J., XV. 233. [The Bill was brought from the Commons on 13 Feb. and read 1ª the next day. (L. J., XV. 227, 228.) In Committee on 18 Feb., L. Cornwallis in the Chair, the above Petition was read, and the Bill read by paragraphs. *Sergeant Darnell* and *Sir Bartholomew Shower* (for the Cheesemongers), speak to the leaving out the words ("want of weight") in the first enacting Clause, and propose that the butter may be sold in some public place. *Mr. Northey* (for the Bill) says the buyer may choose whether he will leave the butter, after bought, with the seller. *Sir Bartholomew Shower* proposes a Proviso for a penalty on the Cooper, if the cask be not marked with the weight.† *Mr. Northey:* That is provided for already by the Statute, 14 Car. *Sergeant Darnell* speaks against the general license to trade for butter. *Counsel* for the Cheesemongers offer three (*sic*) Provisos,‡ which are read and spoken to on both sides. They withdraw. *Sir Miles Cooke* offers a Proviso relating to Gloucestershire,§ which is read and, with the two others, rejected. At the end of the Bill add the Proviso

* The Lords' and Commons' Amendments are both given in C. J., X. 849.
† Annex (*b*). ‡ Annex (*c*). § Annex (*d*).

HOUSE OF LORDS MSS. 1692–3.

marked ✠. A Petition of the Bargemen of Suffolk was read and rejected.* Ordered to be reported, as amended. (Com. Book.) The Commons agreed to the Amendment (L. J., XV. 244), and the Bill received the Royal Assent on 14 March. 4 W. & M. c. 7., Fol. Ed.]

Annexed:—

(*a.*) 18 Feb. Amended draft of Proviso forming the last Section of the Act. The concluding sentence relating to security for costs is added in the handwriting of Chief Baron Atkyns. [Added in Committee this day at the end of the Bill. (Com. Book.) It forms a separate Schedule annexed to the Roll.]

(*b.*) 18 Feb. Clause as follows: And for prevention of undue practices committed by divers Coopers in this Kingdom in making unlawful butter firkins, some weighing twelve pounds, some fourteen pounds, and some sixteen pounds weight, many of them being also made of green and unseasoned timber, to the decaying of such butter as hath been packed up therein, to the great damage of farmers making the said commodity and to all other dealers in the same, Be it further enacted by the authority aforesaid, That all and every Cooper and Coopers within this kingdom making and exposing to sale any empty firkin or firkins, half firkin or half firkins, to any dairyman, farmer, or other person or persons whatsoever packing up, or that shall hereafter pack up, butter therein, shall from and after the commencement of this Act, make all and every such firkin or firkins, half firkin or half firkins, for the purposes aforesaid, of sound, dry and well-seasoned timber, and shall immediately, as soon as the same is made, set upon every such firkin and firkins, and half firkin and half firkins, a continuing visible mark of the just weight of every such empty firkin or firkins, half firkin or half firkins, together with the two first letters of his and their name or names, that no such firkin whatsoever, made for the purpose aforesaid, shall not (*sic*) exceed the weight of ten pounds, nor any half firkin exceed the weight of six pounds, upon pain and penalty that every such offender or offenders, that shall make for sale, for the purpose aforesaid, any such firkin or firkins, half firkin or half firkins, of any green or unseasoned timber as aforesaid, or not truly tared as aforesaid, or exceeding such weight as aforesaid, being thereof convicted as an offender against this Act in manner aforesaid, shall forfeit for every such respective firkin the sum of , and for every such respective half firkin the sum of , to be levied in manner as aforesaid. [Offered this day in Committee by Counsel for the Cheesemongers, and read and rejected. Com. Book.]

(*c.*) 18 Feb. Clause as follows: Provided also and be it further enacted by the authority aforesaid, That all and every person and persons, who shall at any time hereafter pack or put up any butter into firkins, or other casks or pots for sale, shall expose the same to sale and sell the same in some public market or fair within this kingdom and not elsewhere; and all and every person and persons that shall otherwise expose to sale or sell any such butter, shall be still subject and liable to all and every the penalties and forfeitures in the said recited Act of the fourteenth year of the said late King mentioned, to be imposed and recovered as in and by the said Act is provided, Anything

* Annex (*e*).

hereinbefore contained to the contrary thereof in any wise notwithstanding. [Offered to the Committee this day by Counsel for the Cheesemongers, and read and rejected. Com. Book.]

(*d.*) 18 Feb. Proviso as follows: Provided that nothing in this Act contained shall extend or be construed to extend to any warehouse which now is or hereafter shall be within the County of Gloucester and the City and County of the City of Gloucester, nor to any vessel or boat at any time belonging to, or that shall come into, any the ports or havens of either of the said Counties. [Offered to the Committee this day by Sir Miles Cooke and read and rejected. Com. Book.]

(*e.*) 18 Feb. Petition of several Masters of hoys and vessels trading from Suffolk to London. The Bill tends greatly to discourage Petitioners in their employment by depriving them of the liberty to contract for the freight of their own vessels at home, and to encourage the Cheesemongers of London to send vessels from thence to freight by Charter-party, while Petitioners' vessels must lie still and the trade be swallowed up by strangers. Pray to be heard by Counsel against the Bill. *Signed* Humphrey Lindsell, John Friend, Thomas Almond, James Cordy, Titus Grafton, Richard Horne, John Lambly, Wm. Westhorp, William Fidler, Thomas Gall, James Deane and John Cock. [Read this day in Committee and rejected. Com. Book.]

(*f.*) Letter from John Kennesley to Sam. Palmer at the "Cheese" in Honey Lane. Has bought one parcel of cheese at 22*s.*, but finds "that good cheese will not be had so now, for, as we use to say, it is gotten in the hucksters' hands. Here is 23*s.* 6*d.* and 24*s.* bidden by our great men here, and is refused by some, that so it will not now be bought for 22*s.* per cwt.; and I have sent to Ince and Fradsom to see if I can get any freight there, for I was denied at Chester, and Potter said that the wholesale men designed no retailer should come in. I suppose they are about to engross all into their own hands. A waggon and cart did promise to load for me this day, but I doubt have deserted me. Wages is 5*s.* 2*d.* and 5*s.* 3*d.*" *Dated* 1 June 1691.

(*g.*) Letter from Same to Same. Finds that he cannot get any freight at Ince or Fradsom, for the wholesale men are engrossing all into their own hands, and will not allow the retailers to come in, and unless they can be prevailed on to do so, no good will be done here. Adds particulars as to purchase, &c. of some cheese. *Dated* 5 June 1691.

(*h.*) Letter from Edmund Duncalfe to same. Is loth to act in his own name for the Retailers, because the Wholesalers are striving against them, and have bound up their business to four men in Hull, of whom he is one. This may happen to be of some consequence, so he cannot be blamed for doing the best he can for himself; and therefore, till he sees what the event will be, he desires Palmer to address his letters to Robt. Richardson, Carver, in Hull. *Dated* Hull, 23 July 1692.

(*i.*) Letter from Thomas Blake. Regrets he cannot examine his ware and ship it. *Dated* Ipswich, 11 Oct. 1692. The address is torn off.

(*k.*) Letter from Tho. Gren to Mr. Edward Domvile, Cheesemonger, over against the Hospital, Southwark. Being now at Woodbridge, he finds that D. H. durst not ship any goods for Domvile, nor durst the writer buy, for his "whole" employers

tell him plain, that if he buys for them, he shall not for Domvile. Proposes an arrangement to do business under assumed names and in disguised handwriting; that the trade take no notice of it, for if they do, he is undone. A second address on the back is to Mr. Charles Bardoe, Cheesemonger, near Fishmonger Hall, in Thames Street. *Dated* 30 June 1692.

(*l.*) Letter from Daniel Leson to same. Makes excuses for not shipping his goods, as Domvile knows he dare not do it without an order from the trade. If Domvile has any interest with the Aldermen or Mr. Nathaniel Hawes, he may get liberty to ship, as formerly. *Dated* Woodbridge, 30 July 1692.

704. Feb. 17. Berry and others *v.* Yate.—Petition of Wm. Berry and Apollina, his wife, Wm. Giffard and Ellen, his wife, and Anthony Dowdall and Rebecca, his wife. Dr. Thos. Yate, late Principal of Brazenose College, Oxford, by his Will of 21 July 1678 gave his estate to his brother Jonathan and his nephew Thomas Yate, son of the Respondent Samuel Yate, and shortly after died. In Jan. 1681 his nephew also died, leaving his brother and sister, Samuel and Elizabeth, Executors of his Will. Some disputes arising about Dr. Yate's personal estate, Jonathan and Respondents agreed on 27 Feb. of that year that Jonathan, on paying 1,000*l.* to the Respondents Samuel and Elizabeth, and Dr. Yates' debts not exceeding 360*l.*, should have all Dr. Yate's and his nephew's personal estates. Jonathan by his Will of 21 July 1687 made Sir Thos. Pinfold, Knt., and others Executors in trust for paying his debts and legacies, and gave several legacies to Appellants, and soon after died. After the nephew's death, his father Samuel carried away from his chamber at the College, with other gold and silver, 300 guineas in a purse and a large number of gold rings, which he concealed from Jonathan and converted to his own use, and after Jonathan's death, sued his Executors for 300*l.*, which he pretended he had paid for Thomas' debts. The Executors refusing to pay Appellants their legacy, till the matter was determined, the latter brought a Bill in Chancery against them and Respondents, for a discovery, and the Lords Commissioners on 18 July 1690 decreed an Account to be taken of Jonathan's and the nephew's estates, and the Executors to pay what was left due of the 1,000*l.* or 360*l.* The Master reported that the 1,000*l.* and interest had been paid by Jonathan, but that 527*l.* 8*s.* 11*d.* remained due to Samuel for sums paid by him for Thomas' debts. Appellant's exceptions were overruled and the Report confirmed in December last, and costs were awarded against him by an Order of 13 Jan. Prays that the Report and subsequent Orders may be rectified. *Signed* by Wm. Berry; *Countersigned* by Rich. Holford and Tho. Filmer. L. J., XV. 234. [The Cause was heard on 4 March, the *Solicitor-General* and *Sir William Williams* being heard for Appellants and *Sir Thomas Powys* and *Mr. Ward* for Respondent. Decree affirmed with 20*l.* costs, and Counsel who signed the Petition ordered to attend on the 6th (MS. Min.; L. J., XV. 275). No further proceedings.]

Annexed :—

(*a.*) 24 Feb. Answer of Samuel Yate, the elder, Clerk, and of Samuel and Elizabeth, his son and daughter. Jonathan covenanted that Respondents should have what money the nephew had answered on his Bursar's account to Brazenose College for rents received by Sir Robert Clayton for the use of the College, and also all moneys due to the nephew. Samuel, the father, paid for Thomas' debts 271*l.* 11*s.* 8*d.*, and the money in Clayton's hands

was 122*l.* 7*s.* 0*d.*, which Jonathan received, and paid the 1,000*l.* and interest, besides 50*l.* towards Thomas' debts and 20*l.* towards the money in Clayton's hands, and made Dr. Edisbury, Sir Thos. Pinfold and one Richard Stevens, Gent., Executors of his Will in trust for the Appellants, his daughters. The Respondent Samuel the elder, with Dr. Edisbury and one Mr. Hatton, Senior Fellow of the College, entered Thomas' study after his death, and found some money and some gold rings, which by Dr. Edisbury's direction, were numbered and left with Hatton, who handed them over to Jonathan, except the rings, which the latter allowed him to keep. The Decree is just, and the Respondent Samuel the elder being almost 80 years old, Appellants use all means of delay. *Countersigned* by Tho. Powys. *Endorsed* as brought in this day.

705. Feb. 17. Privilege of King's Servant (W. Laycock).—Petition of William Laycock, Esq. Petitioner, one of the Gentlemen of his Majesty's Privy Chamber in Ordinary, is prisoner in the King's Bench Prison, having been arrested at the suit of one Robert Winter. Prays that the Marshal or Keeper may be ordered to discharge him. [Read and ordered as prayed this day. L. J., XV. 233.]

706. Feb. 17. Quarter Sessions (Writs of *Certiorari*) Bill.—Petition of Simon Harcourt, Secondary of the Crown Office in the King's Bench, Robert Seyliard and the rest of the Clerks of the same Office, for leave to be heard by Counsel against the Bill to prevent delay of proceedings at the Quarter Sessions of the Peace. *Signed*, in addition to Harcourt and Seyliard, by William Eyre, John Weekley, Rich. Horton, Ben. Brown, Geo. Weekley, John Cook, Will. Leighton and Lyonell Fanshawe. [Read this day and Counsel ordered to be heard the next day. (L. J., XV. 234.) No further proceedings. *See also* No. **695.**]

707. Feb. 17. Fitch *v.* Fitch.—Petition and Appeal of Dame Anne Fitch, Widow and Administratrix of Sir Thomas Fitch, Knt. and Bart., deceased. Sir Thomas, after lending the Respondent John Fitch large sums to relieve his necessities, was prevailed on, a few days before his marriage, to give him a general release, leaving him a debtor, however, for 1,000*l.* on two bonds, and in 1677 made him partner in the work of building fortifications at Chatham, Portsmouth and other places for Charles II., and continued the partnership till his death in 1688. John wanting money, Sir Thomas advanced all that was necessary for carrying on the work, and expended so much on his particular account, that John in 1678 gave him a bond for 1,650*l.* A dividend was afterwards made, and John received 1,000*l.* as his moiety, besides a further 500*l.* at a second dividend in 1681, when, being found to owe Sir Thomas 3,006*l.* on his private account, he assigned to him his moiety of a talley for 3,065*l.*, the whole of which talley Sir Thomas then assigned to one Henry Lamb, a Goldsmith, as security for 700*l.* A third dividend was made in 1685, and in 1690 Sir Thomas, desiring to settle something on John's daughter, Alice, entered into a bond of 4,000*l.* for a portion of 2,000*l.* to her, if she married, and if not, the same to go to John, and to arise out of his moiety of 4,998*l.* then due from the Ordnance Office, all of which was afterwards received and spent upon the works. A fourth dividend was made in 1687, reciting a receipt for 5,000*l.*, being the whole of John's share of the four divi-

HOUSE OF LORDS MSS.

1692–3.

dends. In 1688 Sir Thomas died intestate, leaving Sir Comport, Thomas, Anne, Melior and Christian his children, the eldest about 12 years of age. Differences arising as to the talley, the 2,000*l.* on the bond, and 1,000*l.* paid on the last dividend, Appellant brought a Bill in Chancery against John for a general account and for relief against the bond of 4,000*l.*, and John brought a Cross-Bill for an account of the receipts from the partnership and of Appellant's receipts as administratrix, and for relief against the assignment of the talley. The Court on 1 March, 2 W. & M., decreed separate accounts of the partnership and the moiety due on the private account, and that Appellant should account for her receipts since Sir Thomas' death. After a rehearing, and a report from the Master, Appellant's exceptions to which were overruled, the Court decreed that the 1,650*l.* bond was the consideration for the assignment of the moiety of the talley, and that the 4,000*l.* bond should stand as a charge on Sir Thomas' estate. Prays that this Decree may be set aside. *Signed* by Appellant; *Countersigned* by J. Somers and Tho. Trevor. L. J., XV. 234. [The Cause was heard and the Decree affirmed on 3 March, the *Solicitor-General* and *Mr. Blackerby* appearing for Appellant, and *Mr. Finch* and *Mr. Ward* for Respondents. (MS. Min.; L. J., XV. 272.)]

Annexed :—

(*a.*) 23 Feb. Joint and Several Answers of Sir Comport Fitch, Bart., Thomas Fitch, Gent., Anne, Melior and Christian Fitch, Infants, by Lancelot Johnson, Esq., their Guardian. Sir Thomas lent large sums to the other Respondent John Fitch, and purchased his moiety of the talley, and gave a bond for payment of 2,000*l.* to him as a portion for the other Respondent Alice, endorsed to arise out of John's share of the money then due from the Ordnance Office. Hope that the suits in Chancery will not prejudice their interest in their father's estate. *Signed* by La. Johnson. *Endorsed* as brought in this day.

(*b.*) 27 Feb. Answer of John Fitch, John Saunders and Alice Fitch. The Commissioners treated with the Respondent John Fitch for the work, and proposed to advance 3,000*l.*, if he undertook it. Sir Thomas, knowing that John was skilled in such work, and not in such low circumstances as is suggested, having an estate of inheritance in Dorsetshire, of 300*l.* a year, importuned him to be admitted as partner. Sir Thomas in 1677 received the 3,000*l.*, and never advanced any of his own money for the work, which was managed entirely, and at great expense by John, his partner meanwhile residing in London, and taking fraudulent advantage of the money passing through his hands. The 2,000*l.* on the bond was for part of the 5,000*l.* due to John, as his moiety of the four dividends, Sir Thomas making up the rest in notes, including one drawn on Lamb for 1,000*l.* Respondent released his interest in the moiety of the talley, in consideration of Sir Thomas' delivering up the bond, which he never did, but by surprise, in Respondent's absence, got the assignment from a Mr. Russell, with whom the release had been left, until the bond was delivered up to be cancelled. Pray to be dismissed with costs. *Signed* by above Respondents; *Countersigned* by T. Vernon. *Endorsed* as brought in this day.

708. Feb. 17. Hawkers and Pedlars Prohibition Bill.—Commons' Engrossment of an Act to prevent the decay of Trade in Cities, Corporations and Market Towns. The text of this Bill is printed below in Roman type, the portions of which included in square brackets

represent what is omitted by the later Bill of 2 April 1694, while the italics represent what is added by that Bill.

Clause 1 (in both Bills).

Forasmuch as the Cities, Corporations and market towns from all parts of the Kingdom have complained that, by reason of some defects or difficulties in the execution of the present laws, the inhabitants and settled traders of the said cities, corporations and market towns are so undermined and forestalled by the unlawful practices of pedlars, hawkers and other wandering persons, who in all parts do carry about, sell and expose to sale from house to house and place to place divers deceitful, prohibited and uncustomed goods of all such kinds as they, the said settled traders and shopkeepers, do deal in, by which means the [consumption and values of the said goods are much hindered] *life and substance of trade is impaired and carried away by strangers and horse and foot pack-men*, and true workmanship discouraged, to the great prejudice of the English manufactories, both at home and abroad, and to the discouragements and ruin of all the fair and legal traders in the said cities, corporations and market towns, and to the falling of the rents and profits in and about the same; For remedy whereof be it enacted by the King and Queen's Most Excellent Majesties, &c., That from and after the [first] *nine and twentieth* day of September [next], which shall be in the year of our Lord one thousand, six hundred, ninety [three] *four*, no pedlar or person or persons whatsoever, either on foot or with horse, *horses* or otherwise, (except as hereafter in this Act is excepted) shall carry about and sell or expose to sale, or cause to be carried about and sold or exposed to sale, any goods or wares made of, or mixed with, any woollen, linen, silk, cotton, hair, metals or leather, or any such goods or wares as are usually sold by drapers, mercers, haberdashers, grocers, stationers or glass-sellers in any city, town, borough, village, hamlet or any other place whatsoever, within the Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, except it be in open [fair] *fairs* or marts or in open markets, in such manner and by such persons as hereafter is herein limited and provided, or in his, her or their own shop or ware-house, where they usually inhabit, or in the open market of [such] *any* city or town, [in which he, she or they do reside and dwell] upon pain to forfeit and lose, for every such offence committed contrary to the intent hereof, the several sums following (that is to say), every horse-chapman, pedlar or other wandering person the sum of forty shillings, and every foot-chapman, pedlar or wandering person the sum of ten shillings, whereof one moiety to be to the use of such person or persons, who shall seize or procure to be seized such offender or offenders, and the other moiety to the use of the poor of the parish where such offence shall be committed or commodities [shall be] seized, *to be levied* as hereafter is provided.

Clause 2 (in both Bills.)

And it is hereby further enacted by the authority aforesaid, that any person or persons shall and may detain any such offender or offenders for such reasonable time, wherein he or they may give notice to any constable, headborough, tithingman, churchwarden, overseer of the poor, or any other parish officer or officers from time to time and at all times from and after the said [first] *nine and twentieth* day of September, upon any offence committed contrary to this Act, which officer and officers, upon such notice, or otherwise upon their own view or knowledge, are hereby empowered and required to seize the goods, wares and commodities so carried about [or] *and* exposed to sale as aforesaid contrary to this Act, and hold and detain such goods and commodities for any time not exceeding the space of ten days, within which time, [as] *so* soon as conveniently may be, the person or persons so seizing shall repair to one of their Majesties' Justices of the Peace of the county, riding, city, town-corporate or division, where such seizure was made, which said Justice shall have power, and is hereby required, to hear and determine the said matter, upon due proof, by the oath of one or more witnesses (which oath he is hereby empowered and required to administer), and upon acquittal or discharge of the person or persons whose goods shall be so seized, the said Justice or Justices shall cause the said goods to be restored to the owner or owners thereof; but on finding and adjudging the persons to be guilty of the offence aforesaid, in manner as aforesaid, the said Justice or Justices shall, by warrant under his or their hand and seal, to be directed to the constable or other officer or officers aforesaid, cause the said goods, wares and commodities to be sold for raising the said penalties, or so much thereof as shall be sufficient for raising the [said penalties by this Act imposed for every such offence committed as aforesaid] *same*, unless the said offender or offenders shall, within the said space of ten days next after [such seizure and] conviction made [as aforesaid], pay or satisfy to the said prosecutor or prosecutors

HOUSE OF LORDS MSS. 1692–3.

the said several sums of forty shillings and ten shillings *respectively*, for every such offence by him, her or them committed as aforesaid, and in default thereof, [then it shall and may be lawful] to and for the said constable and other officer and officers, as aforesaid, of the hundred, parish or place where such seizure shall be made (who are hereby required to be aiding and assisting therein), by virtue of a warrant from the Justice of Peace as aforesaid, to cause the said goods, wares or commodities so seized, to be appraised by two sworn appraisers, (whom such Justice of the Peace, constable, or other officer or officers is hereby empowered to swear), to appraise the same truly, according to their best understanding, and after such appraisement shall and may lawfully sell the goods, wares or commodities so seized and appraised, or such part thereof as shall be sufficient, for the best price that can be gotten for the same, within six days, towards satisfaction of the penalties and forfeitures aforesaid, and of the charges of such [appraisements] *appraisement* and sale, restoring the said party or parties offending the overplus thereof, if any be.

* Clause 3. (No. 10 in later Bill.)

And be it further enacted by the authority aforesaid, that if any person or persons *shall* [be] at any time *be* sued for putting in execution any of the powers contained in this Act, or for doing anything pursuant thereunto, such person or persons may plead the general issue, and give the special matter in evidence: and if the Plaintiff be nonsuit, or a verdict pass for the Defendant, or if the Plaintiff discontinues his action, or if, upon demurrer, judgment be given for the Defendant, every such Defendant shall have [double] *treble* his or her costs.

† Clause 4. (No. 3 in later Bill.)

Provided that this Act shall not extend to hinder any person or persons residing and dwelling in the Kingdom of England, dominion of Wales, or town of Berwick-upon-Tweed, who are the real workers and makers of any goods or wares, *or his, her or their children, apprentices or domestic servants,* from selling or exposing to sale any of the said goods or wares of his, hers or their own making [on] *in* any market [day], *fair or mart* in the open markets [of all cities, corporations and other market towns whatsoever, in as free, large and ample manner as they, or any of them have, or lawfully might have, done, before the making of this Act] *or within fifteen miles of the place of his, her or their habitation, nor any such workers as aforesaid from selling their own manufactures, nor any other person whatsoever selling by wholesale only to any shopkeepers who sell the same by retail, nor to restrain any tinker or other persons usually employed in mending or repairing of any kettles or household goods whatsoever, from going about and carrying with him or them materials for mending the same, this Act, or any other Act or Acts heretofore made to the contrary, in any wise notwithstanding.*

Clause 5. (Not in later Bill.)

[Provided also that any person or persons residing and dwelling as aforesaid, who are the real workers and makers of any goods or wares whatsoever, either of English or foreign materials, may at any time sell and expose to sale any of the said goods or wares of his, her or their own making, to any person or persons whatsoever inhabiting in the said city, town or place where such maker doth reside and dwell, or within ten miles of the same, as freely and lawfully as they or any of them have, or might have, done before the making of this Act.]

† Clause 6. (*See* Clause 3 of later Bill *ad fin.*)

[Provided also, that any tinker or other persons usually employed in mending or repairing of any kettles or other household goods whatsoever, may go about and carry with him or them materials for mending the same as lawfully and freely as they, or any of them, have or might have done before the making of this Act.]

Clause 7. (No. 4 in later Bill.)

Provided also, *and be it further enacted,* that any pedlar or pedlars, or other wandering person or persons, who have been [occupied and] employed for and during the space of seven years last past in buying and selling any of the goods and wares usually dealt in by any of the shopkeepers aforementioned, giving security to

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* Compare Sect. vi. of Act of 1696–7 (8–9 Will. III. c. 25., Fol. Ed.).
† Compare Sect. ix. of Act.

indemnify the parish, as by law required, shall have free liberty to take *a* house and shop, or either of them, in any market-town, village or hamlet in the Kingdom of England or dominion of Wales (except cities, boroughs and towns-corporate) and being therein settled as aforesaid, shall and may lawfully use and enjoy the same liberty and privilege of trade, as if he or they, or any of them, had served apprenticeships in the said town or towns, any former law or statute to the contrary notwithstanding.

Clause 8. (No. 5 of later Bill.)

Provided *also* that this Act shall not extend to any person or persons for selling of glasses or earthenware out of the cities of London and Westminster, or suburbs thereof, [or any other city, borough or corporation whatsoever] *and out-parishes within the Bills of Mortality.*

* Clause 9. (No. 6 of later Bill.)

Provided *further* that this Act or anything therein contained shall not extend to prohibit any person or persons from selling any Acts of Parliament, Forms of Prayer, Proclamations, Gazettes, licensed Almanacks, or any other public papers licensed by authority.

Clause 10. (No. 7 of later Bill.)

Provided also, that no pedlar, petty chapman or hawker, who shall be punished by virtue of this Act, shall suffer or be punished for the same offence by any other Act or law whatsoever.

† Clause 11 (in both Bills.)

And be it further enacted by the authority aforesaid, that if any constable, headborough, or other officer or officers aforesaid, shall refuse or neglect (upon due notice) to be aiding and assisting in this Act, every such officer, being thereof convicted by the oath of one or more witnesses before any Justice of the same county, riding, city, town-corporate or liberty, (who are hereby authorized and required to hear and determine the same) shall forfeit for every such offence [the] *any* sum [of] *not exceeding* forty shillings *nor under twenty shillings,* to be levied by distress and sale of the offender's goods, by warrant under the hand and seal of such Justice of the Peace, to be distributed, the one half thereof to the poor of the parish where such offence shall be committed, and the other to the informer, and the overplus thereof, if any be, to be returned to the party so offending.

Clause 12. (No. 8 in later Bill.)

Provided always that if any person or persons shall think him, her or themselves aggrieved by the determination of any Justice of the Peace, who shall at any time act in pursuance of the powers to him given by this Act, it shall and may be lawful to and for such person or persons to appeal to the next General Quarter Sessions of the Peace, to be held for the county, riding, city or town-corporate where the said offence shall be committed, the determination of which Justices shall be final and conclusive to all parties.

Clause 13. (No. 9 in later Bill.)

Provided nevertheless, that no person shall be capable of bringing any such Appeal at the Quarter Sessions, who shall not, after such determination of the [Justice] *Justices* of *the* Peace, and before the sale of the said goods, enter into recognizance, with one or more sufficient sureties, before the said Justice of the Peace, who made the said determination, to answer the said penalty to the informer and poor of the parish, together with [double] *treble* costs, in case the Appeal shall be adjudged against him, her or them so appealing by the said Justices at the Quarter Sessions, or the major part of them.

Clause 14. (Not in later Bill.)

[Provided always, that nothing in this Act shall extend to certain persons called packers or traders, who carry woollen or any other manufactures of this Kingdom from town to town, to be sold to shopkeepers only, or at fairs, for any such manufactures they shall so carry, so as such packers or traders do not sell the same by retail to any other person or persons than such shopkeepers or at such fairs.]

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* Compare Sect. ix. of Act.
† Compare Sect. vii. of Act.

HOUSE OF LORDS MSS.

1692–3.

Clause 15. (No. 12 in later Bill.)

And be it further enacted by the authority aforesaid, that this Act shall continue in force for the term and space of [five] *seven* years, and from thence to the end of the next Sessions of Parliament and no longer.

The Bill of 1694 concludes with the following clause, which is not in this Bill, viz.:—*Clause* 13. *Provided that nothing in this Act contained shall extend to give any liberty to any tinkers to do any work in the cities of London or Westminster, or borough of Southwark, or any other city or corporation town, which they could not do before the making of this Act, anything in this Act contained to the contrary thereof in any wise notwithstanding.*

Parchment Collection. [Brought from the Commons this day (L. J., XV. 234). Read 1ª and rejected 18 Feb. (*Ib.* 235).]

709. Feb. 18. Privilege of King's Servant (Mark Smith).—Petition of Mark Smith. Petititioner, one of his Majesty's Watermen in Ordinary, as appears by a certificate of E. Dorset, is a prisoner in the King's Bench Prison, at the suit of Sir Thomas Fowles and Rawlinson, formerly Sheriffs of London, on a pretended bail bond, at the procurement of one Abraham New, with whom and another Petitioner was bail some years ago for one Tompkins, since deceased. Tompkins left estate sufficient to pay his debts, but New has got the bond assigned to him, and has charged Petitioner in execution with the whole debt of 250*l.* to excuse himself. Prays to be discharged, that his family may be kept from perishing. [Read this day and Smith ordered to be discharged. L. J., XV. 235.]

710. Feb. 18. Offices (Buying and Selling) Bill.—Draft of an Act to explain the Statutes against Buying and Selling Offices.

§ i. Whereas there cannot be a due administration of Justice or any right application of the public treasure, unless persons worthy and meet and none other be advanced to offices and places of trust, according to the true intent and meaning of the laws made against buying and selling offices, And whereas the honour, wealth and safety of the nation chiefly depend on the due and impartial execution of the laws in force, It is absolutely necessary to make such provision, that the Judges and Officers entrusted or to be entrusted with the administration or execution of Justice may not, under the umbrage of a proviso in the statute made in the fifth and sixth years of King Edward the Sixth [5 & 6 Edw. VI. c. 16.*], buy and sell offices, seeing that proviso for the Judges to give and grant offices as they might have done ought not to be construed for them to sell, by reason the laws before that time made in the eighteenth and twentieth years of King Edward the Third and in the twelfth year of King Richard the Second [18 Edw. III. stat. 4.; 20 Edw. III. c. 1.; 12 Ric. II. c. 2.] remain in full and perfect force; Be it therefore Enacted by, &c., That from and after the day of every Chief Justice, Judge of Assize or other, who shall buy or sell any office, shall incur all and every of the penalties and forfeitures in and by the laws made against buying and selling offices provided, ordained and appointed.

§ ii. And for the better execution of the laws, Be it further Enacted That every Chancellor, Keeper or Commissioner of the Great Seal and every Judge and Baron, at or before he enter upon the execution of his office, shall take an Oath upon the Holy Evangelist to the effect following:

I, A.B., do swear that I have not by myself or other, directly or indirectly, given or promised to give anything to any person for the office

* This and the other references to the Statutes given here in square brackets are noted in the margin.

of and to which I am now admitted, and that I will to the best of my skill lawfully counsel their Majesties in their business, and will not counsel or assent to anything which may turn to their Majesties' damage or disherison by any manner of way or colour, and that I will to the utmost of my power remedy such things as I believe doth in any wise tend to the dishonour or disprofit of their Majesties and their people, or make the same known to their Majesties, that they may be redressed ; and that I will do equal law and execution of right to all their Majesties' subjects, rich and poor, without respect of persons ; and that I will not by myself or other, directly or indirectly, privately or openly, take any fee, gift or aught of value may turn to my profit of any person upon any account whatsoever for any matter or thing to be done by me in any wise relating to my office, but will content myself with such salary as their Majesties think fit to allow and grant me; and that I will not deny common right to any, but will execute the laws as faithfully as I can, to promote their Majesties' honour and the comfort, safety and prosperity of their Majesties and their people.

§ iii. And be it further enacted, that every person, before admitted to the execution of any office, shall besides the usual oaths, take an Oath upon the Holy Evangelist to the effect following:

I, A.B., do swear that I have not by myself or other, directly or indirectly, given or promised to give anything to any person or persons whatsoever for the office of and to which I am now to be admitted, as God help me.*

§ iv. And whereas Oaths and penalties have hitherto proved ineffectual to make good and wholesome laws be duly observed, by reason the Judges and Officers, who dispense with divers of them, be entrusted to reform themselves and correct others; Be it therefore enacted That any person at his or her election shall upon petition have a Commission, which shall be granted by the Court of Chancery, King's Bench, Common Pleas or Exchequer, or any of them, directed to special Commissioners of good credit of the Petitioner's nomination, to inquire of any Judge or Officer's breach of Oath and duty by a substantial jury, duly to be returned by the Sheriff of that city or county wherein the offence is suggested to be committed; And the Inquisition, duly taken, returned and filed in that Court, out of which the Commission is or shall be issued, shall be a judgment by default, if the fact found be not traversed and tried according to the directions of the Statute made in the first year of King Henry the Eighth [c. 10.], and after judgment by default or verdict upon trial of the traverse, the Judge or Officer convicted of breach of any condition in law, which by his oath and duty he is obliged to perform, shall forfeit his office and suffer punishment as in the case of perjury; and the office forfeited, after judgment and conviction aforesaid, shall be granted to the prosecutor during his good behaviour, if he desire the same and be well qualified for it, or otherwise the prosecutor shall have so much duly paid to him in money out of the Exchequer as the full three years value of the office forfeited shall be valued or reputed to be worth at one entire payment, as his reward for the great trouble and expense he must necessarily be at in serving the public.

§ v. Lastly, it is Enacted that the due fees belonging to every person in any office or employment shall be fairly written in paper or parchment,† and shall be hung up in every of the respective Courts and in some one

* *Noted* in margin: 18 Edw. III. stat. 4., 12 Ric. II. c. 2. direct an oath to be taken by all that claim a right to give or grant offices.

† *Noted* in margin: 3 Jac. I. c. 7.

or more of the most public office or offices belonging to every Court respectively, for any, at his or her election, to read and take copies thereof, And the Officer or Officers, in whose office or offices the same shall be hung up in tables as aforesaid, shall renew and transcribe them when and as often as they become illegible or obliterated, upon pain of forfeiture of office as aforesaid. [Read 1ª this day (L. J., XV. 235). Committed on 20 Feb. to the same Lords who formed the Committee on the Duchy of Cornwall Bill (*ib.* 237).* The Committee on this Bill met on 21 Feb. (E. Stamford in the Chair); 22 Feb. (E. Rochester in the Chair); 23 Feb. (E. Stamford in the Chair); 24 Feb. (M. Halifax in the Chair); 27 Feb. (L. Ossulston in the Chair), and 28 Feb. (E. Rochester in the Chair), but each time only to adjourn, no proceedings being recorded in Com. Book, and the Bill dropped with the Session.]

711. Feb. 20. Castell *v.* Stephens.—Petition of Richard Castell. Petitioner, being possessed of four leases for lives of several houses, lands and mills and the Stewardship of the Fairs and a coney warren in Blockley, in Worcestershire, and also seized of freehold lands in Burton, Gloucestershire, in the whole about 150*l.* a year, mortgaged the same for 1,050*l.* to Anthony Arnold in 1665. Arnold having entered and received 8 years' profits, before the mortgage was forfeited, Petitioner brought a Bill against him in Chancery for an account and redemption, and in April 1673 obtained a Decree to redeem the same, and 390*l.* was then reported due to Arnold. One Francis Stephens having agreed to assist Petitioner to pay off this debt, Petitioner in February 1673 conveyed the premises to him for 1,250*l.*, out of which it was agreed that Stephens should pay the said debt to Arnold and the rest to Petitioner, but (by a private agreement) to reconvey the premises, on Petitioner's repayment of the 1,250*l.* and interest. Petitioner never received more than 60*l.* of Stephens, who shortly after the conveyance, combined with Arnold and procured him to convey the premises to him, and then refused to account with Petitioner for the remainder of the 1,250*l.* or suffer him to redeem. Petitioner, thereupon, brought a Bill against Stephens, who answered denying the agreement to reconvey, but submitted to a redemption on payment of the 1,250*l.* with interest, and insisted that he was an absolute purchaser. On 2 March, 4 Jac. II., the Court decreed that Stephens should account with Petitioner for the whole 1,250*l.*, and pay what was due, which was reported to be 578*l.* 6*s.* 2*d.* An Order for rehearing having been obtained but afterwards discharged, the Decree was enrolled and Stephens prosecuted to a sequestration, but Petitioner's Clerk in Court having by mistake drawn up the Decree without taking notice that witnesses were examined, Stephens brought a Bill of Review, and obtained, on the ground of this omission only, a reversal of the Decree and a dismission of Petitioner's Bill, and Petitioner is advised that another Bill of Review does not lie. Prays that the Cause may be heard, and all the enrolments laid open, and for leave to proceed on the Report. *Signed* by Appellant; *Countersigned* by Wi. Williams and Wm. Dobyns. L. J., XV. 237. [The Cause was heard on 5 Jan. 1693-4. *Sir William Williams* (for Appellant): We desire

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* *See* No. **700.** The Committee on each Bill consisted, as appears from MS. Min., of the Lords then present, *i.e.* at the commencement of the Sitting. It appears from MS. Min. that E. Bath, L. Great Chamberlain, E. Warrington, L. Ashburnham and L. Clifford were added to the Committee on this Bill on **22 Feb.** No entry of this in L. J.

that the enrolment of the dismission of our Bill may be taken off. This estate was mortgaged to one Arnold. We have not received but 100*l.* of our estate. We have been out of our estate ever since 1675. This was reheard before L. Jeffreys. *Mr. Dobyns* (for Appellant): We only desire that the enrolment may be set aside, so that we may be reheard. The question is, whether a mortgage or a purchase. They remain accountable to us for the purchase money unpaid. *Sir Thomas Powys* (for Respondent): He says he has received nothing. Now we have actually paid Arnold, and we have his deeds and conveyances and his receipts for the purchase money. He has received 1,150*l.*, and we have paid Arnold. This man made no pretence during Arnold's life. The Master reports the whole purchase money paid. *Bourne* v. *Stone*; he cites the same case with this, which your Lordships dismissed with a sort of reprimand. *Mr. Vernon* (for Respondent): We hold distinct acquittances and discharges, and we have actual possession and quiet enjoyment for 10 years. Decree affirmed. (MS. Min.; L. J., XV. 335.)]

Annexed:—

(*a.*) 3 Nov. 1693. Answer of Francis Stephens. Appellant was possessed of certain houses in Blockley, and certain lands called the Warren and the Woods, under some leases from the Bishop of Worcester, and of certain lands in Bourton, which he and his wife conveyed to Arnold for 150*l.* without any proviso of redemption. In 1673 Appellant and Arnold agreed with Respondent for his purchase of the premises, and Appellant and his son assigned to him for 275*l.* their interest in the houses in Blockley, and conveyed to him for 625*l.* the Warren, and for 350*l.* the lands at Bourton. The Court on 9 June 1686 declared Respondent an absolute purchaser of the Warren for 625*l.*, but there being no proof of the payment of the 625*l.* for Blockley and Bourton, Respondent was ordered to account, and to be allowed what he had paid Arnold out of the purchase money. The Master reported all the 625*l.* paid for Blockley and Bourton, but Appellant having taken exceptions, Respondent was ordered to account for the whole 1,250*l.*, and afterwards to pay 578*l.* 6*s.* 2*d.*, though not a penny was due. The Cause being reheard, on a Bill of Review, on 30 May 1690, the Court, on reading the receipts for the purchase money, dismissed the Bill of Appellant, who has all along prosecuted his suit *in formâ pauperis*. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent. *Endorsed* as brought in this day.

(*b.*) 20 Nov. Petition of Appellant. Parliament was prorogued before Appellant could serve their Lordships' Order to answer on Respondent. Prays that the Appeal may stand revived, and that Respondent may be ordered to answer on an early day. *Signed* by Appellant. L. J., XV. 302.

(*c.*) 1 Jan. 1695-6. Petition of Respondent. The Appeal was dismissed by their Lordships on 5 Jan. 1693-4, but never mentioned the date of the Order appealed from. The date given in their Lordships' Order, as drawn up, is 2 March, 4 Jac., which is a mistake, the Appeal being from the Order of 30 May 1690, which dismissed the Bill. Appellant, by reason of that misrecital, insists that the Decree of 2 March is affirmed, and under that pretence has troubled Respondent in the Courts below. Prays that the Order may be rectified. *Signed* by Respondent. [Read and Judgment ordered to be amended accordingly this day (L. J., XV. 625). See also *Ib.* 335.]

HOUSE OF LORDS MSS.

1692–3.

712. Feb. 20. Felony (Sureties for Persons pardoned) Bill.—Amended * Draft of an Act to repeal the Statute made in the Tenth year of King Edward the Third, for the finding of sureties for the good abearing by him that hath a Pardon of Felony. Identical, after amendment, with the Act of 1693–4 (5–6 W. & M. c. 13., Fol. Ed.) except in the following passages, where the Act omits the words in square brackets and adds those in italics, viz.:—

§ i. . . . Which Statute hath been found very inconvenient *in relation* to divers people, who have been *esteemed* fit objects of mercy, and therefore *the said Statute* hath been seldom put in practice, but for the most part hath been dispensed withal in the Charters of Pardon *that were granted in former reigns*, and forasmuch . . .

§ ii. Provided nevertheless, and be it enacted by the authority aforesaid, that if any Charter of Pardon be pleaded *by any person* for any [murder or other] felony, the Justices, before whom such Pardon shall be pleaded, may at their discretion remand or [continue] *commit* such person [in custody] *to prison, there to remain* until he *or she* shall [find] *enter into a recognizance with two sufficient* sureties for his *or her* being of the good behaviour for any time not exceeding [two] *seven* years. *Provided that if any such Charter of Pardon be pleaded by a fem Covert or infant, such fem Covert or infant may find two sufficient sureties, who shall enter into a Recognizance for him or her being of the good behaviour as is aforesaid.* [Read 1ª this day (L. J., XV. 237). The Amendments in C. W. H. are not recorded in MS. Min., but are marked on the Draft. The Bill was rejected after a first reading in the Commons on 23 Feb. (C. J., X. 824).]

713. Feb. 21. Churches' Repair Act.—Draft of an Act to make parishioners of the Church united contributors to the repairs and ornaments of the Church to which the union is made. Identical with Act (4 W. & M. c. 12., Fol. Ed.) [Read 1ª this day; Royal Assent 14 March. (L. J., XV. 241, 289.) Com. Book, 23 Feb.]

714. Feb. 21. Privilege of King's Servant (Sir J. Ashfeild).—Petition of Sir John Ashfeild, Bart. Petitioner, one of his Majesty's servants of the Privy Chamber in Ordinary, is in the custody of the Marshal of the King's Bench, having been arrested during the time of Parliament, without the leave or knowledge of the Lord Chamberlain. Prays for his discharge. [Read this day and ordered as prayed. L. J., XV. 242.]

715. Feb. 21. Dowager Lady Mohun's Privilege.—Petition of Phillips [Philippa], Lady Mohun. Petitioner's late husband, Charles, Lord Mohun, settled on his marriage certain lands on Arthur, late Earl of Anglesey, for a jointure for Petitioner. Since his death, about 15 years ago, the greatest part of his estate being in the possession of his mother Katherine, Lady Mohun, as her jointure, and there being great debts and encumbrances upon the rest of the estate, Petitioner has been forced to live in straits to support herself and her children Charles, now Lord Mohun, and Elizabeth Mohun. Katherine dying about April last, the lands in her jointure on her death, by the said marriage settle-

* The Amendments, as shown by the numbers in the margin of the Draft, are to add the words ("and by the authority of the same") after ("assembled") in § i., and to read ("for any time not exceeding two years") instead of ("for the time not exceeding two years") in § ii.

ment, devolved on Petitioner as part of her jointure. But Petitioner's son, by the assistance of one Reynold Couch, an Attorney, has seized the said lands and all the rest of the estate and, by menacing the tenants, has received the rents and profits, leaving Petitioner without support for a year and a half, and threatens her with privilege of Parliament and to keep her out of all these seven years to come. Prays their Lordships to order the Lords Commissioners to issue out their letter enabling Petitioner to proceed in the course of justice, the Commissioners being reluctant to do so without an Order from the House, lest they should commit a breach of privilege. *Signed:* Mohun. *Endorsed* as read this day; nothing done on it. No entry in L. J. [The House, after reading this Petition (MS. Min.), made the Standing Order declaring that Minor Peers and Widows of Peers shall not be allowed privilege of Parliament, saving their right of Peerage. L. J., XV. 241.]

716. Feb. 21. Minshull *v.* Carter.—Petition and Appeal of Richard Minshull, Esq., and Anne Minshull, Widow, his mother. The Commissioners of Charitable Uses in April 1691 decreed that Appellants, the executors, administrators, and assigns of the impropriate tithes of Bourton, should pay to the bailiffs of Buckingham 332*l.* 11*s.* 0*d.* arrears of certain charities in Buckingham, Beachampton, Calverton and Stony Stratford, for distribution as appointed by the Will of Sir Simon Bennet in 1631, the Decree being grounded on the supposition that testator was seized in fee of the said tithes and of three yard land of glebe, and had devised them for the Charities, and that the trustees for the Charities had leased the tithe and glebe in 1634 to Sir Richard Minshull, then lord of the manor of Bourton, for 500 years at a yearly rent of 100*l.*, which lease had been enjoyed by Sir Richard and his son Richard Minshull, Esq., and by Appellants. Appellants filed Exceptions in the Court of Chancery, and the Court on 16 Jan. last affirmed the Decree with interest and costs, although it was shown that Appellant's father, Richard Minshull, held the tithe by lease determinable on his life, and that his widow, in the infancy of the Appellant Richard, held the same by another lease from the trustees, and no proof was given that there was any such lease for 500 years, or any glebe. Appeal from this Decree. *Signed* by Appellants; *Countersigned* by Wi. Williams and Edw. Ward. L. J., XV. 242. [The Cause was heard and the Decree affirmed with 10*l.* costs on 4 March, *Sir William Williams* and *Mr. Ward* appearing for Appellants, and *Mr. Finch* and *Sir Thomas Powys* for Respondents. (MS. Min.; L. J., XV. 275.)]

Annexed:—

(*a.*) 27 Feb. Answer of Richard Harris and Henry Jones, on the behalf of the Poor and other Charities within the parishes and towns of Buckingham, Beachampton, Calverton and Stony Stratford. In 1631 Sir Simon Bennett, Bart., settled the impropriate rectory and tithes of Bourton, then leased to one Wells at 102*l.* rent, upon trustees for the benefit of the poor and other charities in the said parishes and towns. After his death the trustees received the rent till the end of Wells' lease in 1638, when they let a new lease for 500 years at 100*l.* a year to Sir Richard, the Appellant Richard's grandfather, to enable him to enclose the manor of Bourton, of which he was seized in fee, and which he thereby improved from 500*l.* to 1,000*l.* per annum, which he could not otherwise have done, the glebe lands belonging to the Rectory lying in the open fields and intermixt with the lands of the manor. Sir Richard paid the rent till 1645,

when the boundaries and landmarks of the glebe-lands being confounded and destroyed, he took advantage of the troubles of the times and refused further payment for several years, and a Commission was awarded in 1648 to several gentlemen of the county, who found on Inquisition, among other things, that there were certain parsonage lands in Bourton called Hingewell, and that 523*l.* 12*s.* 0*d.* was due and in arrear to the Charities, which they decreed to be paid with the growing rents. This Decree was confirmed by the Court of Chancery on 15 June 1650, after hearing Exceptions taken by Sir Richard, who accordingly paid the arrears, and continued to pay the growing rents till his death, when he left the lease to attend the freehold and inheritance of the manor. His son Richard, the Appellant Richard's father, paid the rents, and so did Appellants after his death till 1686, when they refused to pay any longer, and thereupon another Commission was awarded, and the Decree made which was confirmed in Chancery last January. The two pretended leases were fraudulently taken by Appellants of a person who was not a trustee and had no power to grant them. Pray that the Appeal may be dismissed with costs. *Signed* by Respondents; *Countersigned* by Tho. Powys and Jo. Bowes. *Endorsed* as brought in this day.

717. Feb. 23. Buttons (Importation) Act.—Petition of Humphry Simpson, of London, Merchant. Petitioner having long dealt in Hair Buttons, a great part of his estate consists in such as are already imported by him, and such as were ordered and contracted for in Holland before the Bill was brought in. The time limited for sale of all foreign buttons, which is 25 March next, is so short that it is impossible to sell those already imported. Prays to be heard against the Bill. L. J., XV. 245. [The Bill for prohibiting the importation of all foreign Hair Buttons was brought from the Commons and read 1ª on 22 Feb. (*Ib.* 244). In Committee on 24 Feb. the Bill having been read by paragraphs and agreed to, *Mr. Filmer* (for Petitioner) says the Act allows a time of bringing in buttons, but no time afterwards of vending them, which no Bill ever did before. We have contracted for above 4,000*l.* worth of buttons in Holland, which will lie upon our hands. This law is in effect a retrospect. He offers a Proviso, which is read. *Mr. Phipps:* The reason that hair buttons were not prohibited by the former Act was that there was then no such thing as hair buttons. Our horse-hair is exported to make buttons to bring hither. *Mr. Simpson* offers a letter from his correspondent, which he desires may be read. They withdraw. They are called in again and told the letters are not to be read, but they may speak what they please. *Mr. Filmer* gives the substance of the letters, which is that 4,000*l.* worth of buttons were contracted for before the Bill came in, and he cannot get off of his bargain. *Mr. Phipps:* He may sell his buttons in Scotland, Ireland or Spain, for we send such thither. They withdraw. The Proviso is read again. They are called in again, and asked, whether, when buttons are prohibited, the merchants will sell as good and cheap. *Mr. Phipps:* We sold as cheap when buttons were prohibited, as now. Now hair being exported, we cannot sell so cheap as when we kept it here. *Mr. Simpson:* I sold dearer after the prohibition by 20 per cent. than before. *Mr. Phipps:* Our buttons were ever judged better than foreign. *Mr. Simpson:* The English makers have 50*l.* per cent. advantage of me. *Mr. Phipps:* We will take off his hands all the buttons he has by him. They withdraw. After debate, the Proviso was rejected by 15 to 5 (Com. Book).

—On the third reading on 25 Feb., another Petition of Simpson* was read and rejected, and a Proviso being offered,† on *Question* whether this Rider shall be read a third time, it was resolved in the *Negative* by 26 to 16. (MS. Min.) The Bill then passed without amendment, and received the Royal Assent on 14 March. (L. J., XV. 249, 288.) 4 W. & M. c. 10., Fol. Ed.]

Annexed :—

(*a*.) 25 Feb. Engrossed Proviso as follows: Provided always and be it enacted by the authority aforesaid, That if any person or persons shall at any time after the passing of this Act sell or dispose of any such Hair Buttons at higher or greater rates or prices than the same have within four years last past been usually sold for, he or they so offending shall, on due proof thereof, forfeit all such Hair Buttons as he or they shall be possessed of, one half thereof to be for the benefit of the Informer, and the other half for the poor of the parish wherein such offence shall be committed. *Endorsed* as rejected this day. [*See* Notes above.]

(*b*.) 25 Feb. Petition of Humfry Simpson, that he may be allowed to sell such buttons as are or shall be imported within the time limited by the Act at any time before the end of June next. [Read this day in the House and, on question, rejected. L. J., XV. 249.]

718. Feb. 24. State of Ireland.—List of Witnesses ordered to attend this day, as well as on the 25th and 27th, to give an account, as far as they know, of the State and Condition of Ireland. L. J., XV. 247, 249, 251. *In extenso.* [The House being moved this day to consider the condition of Ireland (MS. Min.), ordered the first six witnesses to attend on the 28th (L. J., XV. 247), to whom the others were afterwards added. On 28 Feb. House *moved* to call in the persons. *Moved* that when they are called in, they be told that the Lords have summoned them to come here to give an account, as far as they know, of the present condition and state of the kingdom of Ireland. *Agreed* to acquaint them with the Order. *Sir John Magill* and *Sir William Gore* were then examined, the latter adding to his Deposition in L. J. (XV. 257) the following: "I have not been injured by any person. Our greatest grievance was the quartering of soldiers. . . . We are under a great misfortune, and now there are three parcels of Rapparees on it. I request on my own behalf that I may be despatched to go to my own estate, there being great disorders in the country." After an interruption to receive some messages from the Commons, *Sir Francis Brewster* was examined, and added to his printed Deposition (L. J., XV. 258) the following: "I know no great harm from the Justices . . . As for the City of Dublin there were complaints made to me of the Government's making them choose what Mayor the Government pleased. They choose the Lord Mayor according to his antiquity. L. Ormond never put it upon us. Mr. Robinson got a letter from L. Sydney to choose the same man Mayor again, and now they are told this man shall be Mayor these seven years." Asked concerning Col. Foulke's soldiers, he says: "I know what was said of that. There are some without, I presume, can; the Bishop of Meath and Col. Fitzgerald. The Captain's name was Pedor. Mr. Robinson, I have heard (*sic*)." Then, after an interruption to receive another message, the *Lady*

* Annex (*b*). † Annex (*a*).

HOUSE OF LORDS MSS.

1692–3.

Ardglasse was examined, and added to her printed deposition (L. J., XV. 260–1) that Coy's troops gave her bills to 700*l*. . . . "I have never received sixpence satisfaction, though I abated prices from what was allowed." *The Bishop of Meath* came in and had the Order read to him, and said: "It is too difficult for me to give an account of the whole state. The Parliament grievances I shall represent; they are (1) The free quartering of the Army; (2) The disposal of forfeited lands and goods; (3) The exactions of fees by officers; (4) The matter of Protections granted. These are looked on as grievances. Of what the Commons did in those cases, I know of no particulars. As for quartering the Army, there has been much grievance. The Protestants murmur at the Protections. The sudden rising of the Parliament put a stop to all." Asked if he knows anything of Col. Foulke's soldiers being murdered, he says: "That his men were murdered is certain—that they were murdered by the combination of the people thereabouts, and I am of opinion they that suffered first, suffered very rightfully, though not perhaps according to the strict rules of law. The manner of their murdering was this: the men came scattering up and were decoyed into the Church, and there were a company of people that hanged them, one by one. The parties were examined and other evidences given in, and there was an Order by the Privy Council to execute them. I think the Order was given by the Lord Chancellor of Ireland. They were all hanged, the first in the Castle Yard, the others in the Market-place, in 1690 I think." Asked if he knew anything of the Additional Article concerning Limerick, he said: "I never knew anything of it." *Mr. Sloane* (*See* also L. J., XV. 261–5. *In extenso*): "I have a letter from Sir James Shannon's son." Reads a Petition, as it was presented to the Lord Lieutenant. "The dragoons now charge Petitioner's estate with their pay." Reads the Petition and Letter, which is dated the 3rd of this month. *Mr. Pultney* * was then examined (*See* L. J., XV. 267–71.) *Mr. Kerne* [? David Cairnes. *See* C. J., X. 833] was then called in and heard: "I have not been much in Ireland these four years. I was there a little. The King[dom] has laboured these four years under the calamity of war. The great complaint has been the subsisting of the Army; this was a great complaint. I have nothing of my knowledge, except as to the Parliament. We thought we had a good understanding with the Lord Lieutenant, and he with us. We were all friends to our country." (Not in L. J.)

On 1 March further witnesses were called in and examined as follows:—*Lieut. Stafford:* "I have resided in England 10 years only this war and action (*sic*). I was little there, and the state of the kingdom is above my sphere." *Col. Robert Fitzgerald* (*See also* L. J., XV. 266–7): "It is two years since I was in Ireland. I am ready to answer any questions, and I know nothing but by hearsay." Asked whether he heard anything concerning Col. Foulke's soldiers, he says: "Ten or twelve were put aside as most suspected of the murder. It appeared they were inveigled into the Church and hanged with withies. The two Lords Justices whispered together and then bade a provost be called, and a black Frenchman came in, and about an hour after he was hanged. He was not tried any other way. I went into the country, and when I came into the town, they told me Sweetman was to be hanged too, and his wife offered me his estate to save him. I said I could nor would do nothing in it. Sweetman is alive yet. I know not how he was saved, but one Mr. Culliford has his estate. I was a Commissioner

* He was Clerk of the Privy Council in Ireland. L. J., XV. 269.

of Forfeited Estates, and I reported it to the House of Commons." *Col. Frederick Hamilton* was then examined (*See* L. J., XV. 261.) *Richard Barry:* "I have been there but little these four years. I know little of it." *Col. Ingoldsby:* "I am another stranger to them. I have not been there this three years." *Mr. Annesley:* "I have not been in Ireland this three months. I will answer any question." Asked what he knows concerning quartering soldiers, he says: "Col. Echlin's regiment is quartered where I lived in the Barony. It would have come to 2 men to a ploughed land, and 6 were laid to me. I gave 5*s.* to each man for quarters. They said, when I complained, they had written to Dean Sing about it. The Dean was Deputy-Lieutenant of the County. The Dean would not take them off." *Moved*, That those who were here yesterday and this day do deliver in writing to-morrow what they said at the Bar,* and that they have notice thereof at their houses. *Ordered* accordingly. *Sir Francis Blundell* was then examined: "I have been out of the kingdom these nine years, until the last year. The quartering soldiers is the great grievance." (L. J., XV. 255; MS. Min.)

On 2 March, the Informations (Annexes (*a*) below) were delivered in by the Witnesses on oath. *Sir Francis Brewster*, having been sworn, was asked by the House what the "reasons" were that he said in his Paper (*See* L. J., XV. 258) he did not care to mention. He said the "reasons" were that several persons—Mr. Ivy, Quartermaster Flood, Mr. Haynes, Henry Davies and Mr. Corker†—were concerned in it, that were in the Government. "We look on what was done by the Justices [as] what was ordered by the Government." *Question* asked, whether he gave this Information in another place? He said, "No." He was ordered to put it in writing. Being recalled afterwards, he delivered in his additional deposition on oath. (Annex (*a*) No. 4 below.) *Mr. James Sloane*, having been sworn, was commanded to name those who said that, if money was not given, the Army must have free quarter. (*See* L. J., XV. 262.) [He says:] "Mr. Poultney and Mr. Davies. This was said in the House of Commons." *Col. Fitzgerald*, having been sworn, was asked what he knew concerning Sweetman? He says: "There came a woman to me; she said their relation, John Sweetman, she was afraid, would be hanged, and if I would save his life, I should have his estate, real and personal. I would not have to do with it. I heard his estate was in the hands of Mr. Culliford." Asked how many were hanged, he says: "I went out of town. There were four or five hanged. I presume they had some trial. I know not Gafney was not tried. This was before Limerick was taken." *Ordered* that he put in writing what he has said. Being recalled afterwards, he delivered in his Information on oath (Annex (*a*) No. 10 below).‡ House *moved* to consider of what has been heard, and what is fit to be done in this case. *Agreed* and *Ordered*, That upon Informations taken in this House upon Oath, it doth appear that within these four years last past, as well since the Peace as before, there have been exorbitant abuses, great mismanagement, and many arbitrary and illegal proceedings in the public affairs of Ireland. *Ordered* that the consideration of the state of Ireland shall be resumed on the 4th inst. (MS. Min.; L. J., XV. 271.)

4 March. Order read for considering the state of Ireland.—L. Mayor of Dublin; Hanging soldiers; Article of Limerick; Forfeited Estates; Free Quarters.

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* *See* Annexes (*a*). † *See* Annex (*b*).

‡ A cancelled entry in MS. Min. adds that "he complained that a Clerk had told him he would not write for an Irishman." *See* Annex (*c*) below.

HOUSE OF LORDS MSS.
1692–3.

1. Additional Article to the Articles of Limerick.
Agreed 2. Forfeitures in General.
Agreed 3. Free Quarter and money exacted.
Agreed 4. Methods of Exchequer altered.
Agreed 5. Death of soldiers near Dublin and execution of Gafney, etc. thereupon and the saving of Sweetman.
Agreed 6. L. Mayor of Dublin.
Agreed [7]. Embezzlement of Stores.
Agreed [8]. Giving Protections to Papists to have and carry arms more than allowed. *Reversing Outlawries.** Giving Papists Protections against suits of Protestants.
Agreed 1. Additional Article to the Articles of Limerick. Too much encouragement to Papists in Ireland.
Forfeitures of Real Estates.
Forfeitures of Personal Estates.
Committee appointed to draw an Address upon the Debate. (MS. Min.; L. J., XV. 274.)†—The Address was drawn by the Committee, E. Mulgrave in the Chair (Com. Book), and agreed to the same day. (L. J., XV. 274–5. *In extenso.*)
6 March. The motion for communicating the Informations to the Commons was negatived without a division, but with a Protest, without reasons, signed by 9 Peers. (MS. Min.; L. J., XV. 276.)
The Address was presented on the 9th, and the King's Answer reported and ordered to be printed the next day. (*Ib.* 279, 283.)].
Annexed:—
(*a.*) 2 March 1692–3. Informations of the following witnesses (11) concerning the state of Ireland (L. J., XV. 256–71. *In extenso*), viz.:—
1. Sir William Gore.
2. Sir John Magill.
3. Sir Francis Blundell.
4. Sir Francis Brewster.
5. Katherine, Countess of Ardglass.
6. Col. Frederick Hamilton.
7. James Sloane.
8. Sir Francis Brewster.
9. Francis Annesley.
10. Col. R. Fitzgerald (2 Papers.)
11. John Poultney.

[Delivered in on oath this day. *See* Notes to first Paper.]
(*b.*) 2 March. Paper endorsed "Oath given to the Gentlemen concerning Ireland." After a proposed form of words, as follows: "The contents of the Paper he believes to be true," the question agreed to be put to the witnesses is as follows: "What is mentioned in this Paper (to be of your own knowledge) is true, and what is upon hearsay, you verily believe to be true." *Underwritten* are the following names: Hen. Davis, Mr. Corker, Mr. Ivy, Mr. Haynes, Flood. [*See* Notes under date to first Paper.]
(*c.*) 3 March. Petition of Henry Lord. Petitioner is committed by their Lordships to the Gate-house for giving abusive language to a gentleman at the door of the House, who has since been pleased to grant him his pardon. Prays the House to pardon him and discharge him from custody. [Read this day (endorsed wrongly 3 Feb.), and Lord discharged. L. J., XV., 273. *See* Notes under date to first Paper. *Luttrell* (2 March) has the

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* These words in italics are expunged.
† The list of Lords as first proposed included E. Carlisle, E. Fauconberg, L. Wharton, L. Cornwallis, V. Newport, E. Chesterfield, The Lord Steward, L. Clifford, and L. Granville (MS. Min.)

following: "One of the Clerks of the Lords' House rudely denying a paper to Col. Fitzgerald in the hearing of the Bishop of Exeter, the bishop complained thereof, on which the Clerk was sent to Newgate, notwithstanding the intercession of the Colonel, the Earl of Oxford, and the Marquess of Halifax."]

719. Feb. 25. D. Somerset's Privilege (T. Heron).—Paper stating (1) that Mr. John Smith will be called to prove that Heron told both Watson and Hall he was the Duke's servant, when he, namely, Thomas Heron, of Corbridge, Northumberland, Gent., Bailiff to the Duke of Somerset, was arrested at the suit of John Watson, of Westminster, Scrivener, on 20 Jan. 1692, and taken into custody by Isaac Hall, an officer of Wood Street Compter, who detained him, though told he was a servant of the Duke, until he gave security to Watson; and (2) Edward Mason and Tho. Morly to prove that Heron was arrested on 8 Feb. at the suit of George Dent, Innholder without Bishopsgate, who was his security to Watson, by order of William Harrison, a Solicitor, and taken into custody by John Cooke, a Sheriff's bailiff, who detained him, notwithstanding he told them he was the Duke's servant, until he gave bail to the action. L. J., XV. 248. [It appears from MS. Min. that Mason and Morly were Heron's bail, and were examined on oath this day, and further that Smith was examined on the 27th.]

Annexed:—

(*a.*) 4 March. Petition of John Watson. Begs pardon for his offence, and prays to be discharged without fees, which he is wholly unable to pay, the matter having already cost him 5*l.* L. J., XV. 274.

720. Feb. 25. L. Baltemore *v.* Blakiston and another.—Petition and Appeal of Charles, Lord Baltemore. Sir William Blakiston, Bart., on his marriage with Mary, a daughter of Cecil, L. Baltemore, Appellant's father, whose portion was 2,000*l.*, agreed to settle on her, for her jointure, the manor of Gibside, Durham, free of all incumbrances, with remainders in tail on her issue, with a covenant that the jointure estate was 300*l.* a year and all the estate to be settled was 600*l.* a year, and that L. Baltemore should, in lieu of the portion, convey to Sir William and his heirs the sixth part of the Hundred of Christchurch and Westover, co. Southampton. The jointure estate, however, being found to be greatly encumbered and not of such yearly value, and Sir William's creditors having got possession of his whole estate, L. Baltemore maintained him and his family for several years, and Dame Mary, after much ill usage and for want of necessaries, was constrained to return to her father, with whom she continued till her death, and L. Baltemore having paid large sums to and for Sir William, it was agreed that the sixth part of the Hundred of Christchurch should be settled to the use of his Lordship and his heirs until Sir William had discharged all incumbrances on his estate and his Lordship was reimbursed what he had paid for Sir William or his Lady or for their maintenance. The said sixth part was accordingly sold in 1665 for 2,333*l.* 6*s.* 8*d.*, which his Lordship received, and let Sir William and his Lady have 300*l.* of the purchase money, and also, to secure some part for the maintenance of Dame Mary, settled the manor of Danby Wiske, worth 300*l.* a year, and the advowson of Danby for securing the 2,000*l.* portion, to the use of himself and heirs, till Sir William discharged his incumbrances and repaid what his Lordship expended for him and his wife, with a proviso to be void on payment of 2,000*l.* within three months after such discharge and repayment, and the

profits of the 2,000*l.* were to be disposed as Dame Mary should direct for her maintenance. L. Baltemore for some years kept the 2,000*l.* in his hands, in hopes Sir William would discharge the incumbrances and make a settlement, according to the Articles, and so receive the portion, and in that time paid various sums for him and the growing interest of the 2,000*l.* to his Lady. Sir William, falling into some misfortune, whereby his life was in danger, from which he was delivered by his Lordship's endeavours, made a settlement of Gibside, by which Dame Mary was to receive 200*l.* a year out of the same, but could not receive it by reason of the incumbrances. Sir William never discharged the incumbrances, and his Lordship paid the profit of the 2,000*l.* to Dame Mary or her order till her death in 1671. His Lordship had before, in 1663, settled Danby Wiske on Humphrey Weld and others to the use of himself for life, and after to Mr. Weld and other trustees for 99 years, and then to Appellant in tail male, the remainder in fee to him. The said term was declared to be in trust, after his Lordship's death, to pay such legacies as he should leave by his will, and for payment of 2,500*l.* to his daughter Elizabeth, and his Lordship by his will appointed the payment of that sum to her and 160*l.* a year till payment thereof, and 120*l.* a year to one Burk and Pearson for 99 years after his death, and declared the premises to be in trust for payment thereof. In 1675 his Lordship died, Sir William owing him 400*l* for moneys expended for him, and above 1,500*l.* for other moneys paid for his debts. Appellant, by consent of the trustees, paid the 2,500*l.* to Elizabeth and all the arrears of the 160*l.* and 120*l.*, and was thereby a purchaser for a valuable consideration. In 1678 Sir William brought a Bill in Chancery against Appellant for the 2,000*l.*, but Appellant, after putting in a plea, went to Maryland and did not return till 1684. After some irregular proceedings by the Plaintiff, the Cause was heard *ex parte* on 27 June 1679, and Sir William obtained a Decree and Report for payment of 3,844*l.* 11*s.* 3*d.* and costs, without any allowance for the interest of the 2,000*l.* paid to Dame Mary or for what his Lordship had paid for Sir William, and Appellant is foreclosed of redemption of the manor of Danby Wiske for non-payment of the sum reported due. Sir William, after the Decree, took possession of the said manor, and since his death, Sir Francis Blakiston and Thomas Moore, Junior, have received the rents, as his heirs or devisees or assignees, and threaten to sell the premises. Appellant after his return to England, brought a Bill of Review, which was dismissed. Prays that the Decree and Dismission may be reversed, and an account taken with proper allowances, and that Respondents may be ordered to answer. *Signed* by C. Baltemore; *Countersigned* by Tho. Powys and Edw. Ward. L. J., XV. 249. [The Cause was heard on 6 March 1693–4. *Sir Bartholomew Shower* (for Appellant): This dismission was irregular, and so was the first decree. *Mr. Gibbons* (for Appellant): We have an instrument of a special appointment. *Mr. Filmer* (for Respondents) is heard. Decree affirmed. (MS. Min.; L. J., XV. 386.)]

Annexed:—

(*a.*) 17 Nov. 1693. Petition of Charles, Lord Baltemore, of the Kingdom of Ireland. Respondents have been served with their Lordships' Order of 25 Feb. last, but Parliament was prorogued before they put in their Answers. Pray that a further certain time may be appointed for them to answer. L. J., XV. 300.

(*a*[1].) 17 Nov. Paper containing (1) Copy Order of 25 Feb. 1692–3, and (2) Affidavit of Leonard Robinson, of Scorton, Yorkshire, deposing to service of said Order on Cuthbert Rowes, chief steward and brother-in-law of Sir Francis Blakiston, at

Gibside, and on the Respondent Moore, sworn 2 May 1693 before Thos. Bendlowe, Extraordinary Master in Chancery. [Appended to preceding.]

(*b.*) 9 Jan. 1693–4. Petition of Same. Respondents have been served with the Order to answer, as appears by the Affidavit annexed, but have not complied with it, More pretending that he does not dwell at his father's house, where the Orders were left for him, and refusing to discover his place of abode. Prays that Respondents may be ordered to answer, etc. L. J., XV. 337.

(*b*[1]) 9 Jan. Paper containing (1) Copy Order of 17 Nov. 1693, and (2) Affidavit, referred to in preceding, of Leonard Robinson, of Scorton, Yorkshire, sworn 28 Nov. 1693 before Thos. Bendlowe. Deponent states that he served the order on the Respondent Moore's brother Zacharias, and his father Thomas at Loftus ; that then, having been informed by the Respondent Sir Francis' steward, William Ridley, at Gibside, that Sir Francis was at Sir William Rowes' at Streatham Castle, he served the order there on Sir William, who communicated it to Sir Francis. [Appended to preceding.]

(*c.*) 19 Jan. Petition of Thomas More, Gent. Petitioner, on receiving their Lordships' Order on the 14th inst. at York, prepared at once to come to London, as appears by the annexed Affidavit, to have his Answer drawn, and hopes to arrive there by the 20th. Prays for further time to answer. *Signed* by Marmaduke Norcliffe, by order of Petitioner. L. J., XV. 347.

(*c*[1].) 19 Jan. Affidavit of Thomas More, referred to in preceding Petition, stating that he received on 14 Jan. a letter from George Bowes, of the Middle Temple, acquainting him with the order to answer, upon which he started at once for London. He had had nothing served on him since the Prorogation. *Sworn* 14 Jan. 1693–4 before Geo. Prickett, Extraordinary Master in Chancery.

(*d.*) 26 Jan. 1693–4. Several Answer of Sir Francis Blakiston, Bart. Respondent's late brother, Sir William, died seized of an estate in fee in the manor of Danby Wiske, with the advowson, &c., which he left by will to his nephew Thomas More, subject to the payment of his debts and certain legacies, and More has, since his death, been in possession. Sir William died without issue, and Respondent is his brother and heir-at-law, but was no ways privy to or made acquainted with any of the matters in question, which relate to a time long before he came into possession of any part of the estate, and which he leaves to the other Respondent to answer. Prays costs for this causeless prosecution. *Signed* by Respondent; *Countersigned* by Geo. Bowes. *Endorsed* as brought in this day.

(*e.*) 26 Jan. 1693–4. Answer of Thomas More, Gent. Respondent does not know that Sir William's estate was encumbered, and does not believe that L. Baltemore maintained him or his family, or disbursed any sums for him or his wife, unless he did so out of Sir William's own estate, the rents, &c. of which, amounting to 1,200*l.* a year, his Lordship received, as a trustee. The manor, &c. of Danby Wiske, which were settled for securing the 2,000*l.* portion, fell far short of 300*l.* a year, as at present. Sir William discharged all incumbrances, and settled his estate according to the marriage agreement, but L. Baltemore failed to pay the 2,000*l.* and interest according to the terms of the mortgage or security of Danby

Wiske, whereupon Sir William brought his Bill for payment or foreclosure, and obtained a Decree from L. Chancellor Nottingham. On the Bill of Review before L. Chancellor Jeffreys it appeared that L. Baltemore died indebted above 6,000*l.* to the estate, besides the 2,000*l.* upon the mortgage, but Appellant refused to go to an account, as a condition of re-opening the decree, which was thereupon affirmed. Sir William, being duly in possession, after Appellant was debarred of the equity of redemption, devised Danby Wiske in trust to be sold to pay legacies of above 1,050*l.*, the profits to be applied to discharge the interest of them in the meantime, and the surplus in trust for Respondent, being his sister's son. The settlement of Danby Wiske in 1663 by the late L. Baltemore was made with power of revocation, and is apparently fraudulent and void against purchasers, otherwise it would be hard to give a good account of the late L. Baltemore's mortgaging the same to secure the marriage portion, to which mortgage, moreover, Appellant was privy. The rest of the Appeal does not concern Respondent. Prays that the Appeal may be dismissed with costs. *Signed* by Respondent; *Countersigned* by Sam. Dodd. *Endorsed* as brought in this day.

(*f.*) 27 Feb. 1693–4. Petition of Appellant. Respondents, after many delays, have answered. Prays for a short day for hearing. L. J., XV. 379.

721. Feb. 27. Goodwyn's Estate Act.—Consent of Thomas Bouchier, Principal of Alban Hall, in the University of Oxford, Doctor of Law, and Thomas Fetherston, of Packwood, Warwickshire, Esq., the Trustees of the marriage settlement, to the passing of the Bill to enable Thomas Goodwyn the younger to sell lands for the payment of debts, and making provision for his wife and children. *Dated* 18 Nov. 1692. Signed and sealed, but not attested. [Read this day in Committee (Com. Book). The Bill was brought from the Commons on Feb. 20, and read 1ª the next day; Royal Assent 14 March. (L. J., XV. 238, 241, 289.) 4–5 W. & M. c. 34. in Long Calendar.]

Annexed:—

(*a.*) 27 Feb. Consent of Elizabeth, wife of Thomas Goodwin, the younger. *Dated* 22 Nov. 1692. *Attested* by Wm. Blencow. [Read this day in Committee. Com. Book.]

722. Feb. 28. Parliamentary Elections (False Returns) Bill.—Commons' Engrossment (marked by the Lords for amendment)* of an Act to prevent [false and] double returns of members to serve in Parliament. Identical with the Act of 1695–6 (7–8 W. & M. c. 7., Fol. Ed.), except in the following particulars, viz.:—

Engrossed Bill.	Act of 1695–6.
Clause 1.	Sect. i.
. . . the King and Queen's Most Excellent Majesties† . . .	Line 5. . . . the King's Most Excellent Majesty† . . .
. . . any Member, Knight of the Shire, Citizen, Burgess or Baron of the Cinque Ports . . .	Line 8. . . . any Knight of the Shire, Citizen, Burgess, Baron of the Cinque Ports, or other member . . .

* The Amendments, which are to omit the words included in square brackets, are taken from Com. Book (11 March), and are identified by reference numbers in the margin of the Engrossment. None of them, except the omission of Clause 4 of the Bill, were retained in the subsequent Act.

† And so consequentially throughout the Bill.

Engrossed Bill.	Act of 1695–6.
Clause 1—*cont.*	Sect i.—*cont.*
. . . and in case that any person or persons shall return any Member to serve in Parliament for any County, City, Borough or Cinque Port, contrary to [the last determination in the House of Commons of] the right of Election in such County, City, Borough or Cinque Port, that such . . .	Line 9. . . . and in case that any person or persons shall return any Member to serve in Parliament for any County, City, Borough, Cinque Port or place, contrary to the last determination in the House of Commons of the right of Election in such County, City, Borough, Cinque Port or place, that such . . .
Clause 2.	Sect. ii.
. . . that shall have been duly elected to serve in Parliament for any County, City, Borough or Cinque Port by such . . .	Line 1. . . . that shall be duly elected to serve in Parliament for any County, City, Borough, Cinque Port or place by such . . .
. . . double the damage . . .	Line 4. . . . double the damages . . .
Clause 3.	Sect. iii.
. . . if any Officer shall [falsely and maliciously] return . . .	Line 1. . . . if any Officer shall wilfully, falsely and maliciously return . . .

[Clause 4. Provided that if the House of Commons do determine any person to be duly chosen, then such determination shall not again be drawn in question in any information, suit or action whatsoever.]

Clause [5] 4.	Sect. iv.
. . . such contract, security, promise or bond . . .	Line 3. . . . such security, contract, promise or bond . . .
Clause [6] 5.	Sect. v.
And for the more easy and better proof of such [false or] double return . . .	Line 1. Same as in Bill.
. . . relating to such [false or] double return . . .	Line 8. Same as in Bill.
. . . House of Commons, or shall neglect or omit . . .	Line 13. . . . House of Commons, or give any Certificate of any person not returned, or shall wilfully neglect or omit . . .
. . . parties concerned the sum of two thousand pounds . . .	Line 15. . . . parties aggrieved the sum of five hundred pounds.
Clause [7] 6.	Sect. vi.
. . . within the space of twelve months . . .	. . . within the space of two years . . .

Parchment Collection. [Brought from the Commons this day, and read 1ª on 2 March (L. J., XV. 253, 256). On 10 March, after a Message of reminder from the Commons, the Bill was reported without amendment, as ordered in Committee on the 8th (Com. Book), and recommitted (L. J., XV. 284), the MS. Min. adding an expunged entry "to the same Committee, tomorrow." On 11 March, the House being moved "that a time might be appointed for the Bill," it was ordered to be recommitted to the same Committee that afternoon at 4 o'clock, and the Lords present were added to the Committee (MS. Min. No entry in L. J.). The Bill was amended in Committee, on recommitment, as marked above (Com. Book, 11 March), and reported with the amendments on the 13th, when, on *Question* whether to agree to the Amendment in Clause 1, omitting the

HOUSE OF LORDS MSS. 1692–3.

words ("the last determination in the House of Commons of"), it was resolved in the *Negative*. Contents 17; Not-Contents 25. Tellers, E. Feversham and E. Marlborough. The remaining Amendments were then disagreed to, and the third reading, on question, negatived without a division. (MS. Min.; L. J., XV. 286.)]

723. Feb. 28. Sea-water Freshening (Walcot's Patent) Bill.—Commons' Engrossment of an Act for the making Sea-water fresh, clear and wholesome. The Bill, which is to restore to William Walcot, Esq., his rights for 14 years under the Letters Patent of Charles II. in 1675 in respect of an invention for making putrified and salt water fresh and fit for use, which had been interfered with by some persons who obtained other Letters Patent in 1683, is substantially the same as the Act of 1694 (6–7 Will. III. c. 40. in Long Calendar) except in allowing Walcot a term of 14 years from 25 March 1693, instead of 31 years from 10 April 1695, and making the penalty at the end of Sect. i. five shillings instead of five pounds.

Parchment Collection. [Brought from the Commons this day and read 1ª on 2 March (L. J., XV. 252, 256). The Com. Book contains the following:—6 March (E. Bridgewater in the Chair). The Bill is read by paragraphs. *Mr. Walcot* and *Counsel* are called in. *Ordered* that all persons concerned be heard tomorrow, as well the Petitioners as the Company of Stationers. 7 March (E. Bridgewater in the Chair). The Bill is read by paragraphs. The Parties are called in. *Sir Thomas Powys* produces a letter from Col. Fitzgerald, who was to have notice and to be heard, wherein he desires two or three days longer time, since his Counsel is gone on circuit. He was heard in the Commons. The Committee then ordered the Bill to be reported without amendment. The Report was made the same day, when leave was given to Robert Fitzgerald on his Petition* to be heard against the Bill (L. J., XV. 278). On 8 March the Committee was revived, to meet the next day (MS. Min. No entry in L. J.), and in Committee, on 9 March, E. Bridgewater in the Chair, the Parties were called in. *Sir Bartholomew Shower* (for Mr. Fitzgerald) says that Mr. Walcot's Patent is expired. He desires no right to be confirmed, but a right to be given him. We have the testimony of the College of Physicians that we make salt-water fresh. We pray a saving of our right to our invention. *Mr. Holles:* We have expended great sums, and we have five or six years yet to come. He produces an Order of Council, dated 31 Oct. 1683, for vacating Mr. Walcot's Patent, which is read. We have Patents from France and Denmark. *Sir Thomas Powys* (for Mr. Walcot): We have the Certificate of the King's Master Builder of the usefulness of our invention. They can make no water that is good. We have Patents from the States General. The invention must be totally lost if we have not an Act. The King can grant no further time, and no man in England can do it but Mr. Walcot. A Certificate under L. Chandos' hand of his having kept some of Mr. Walcot's water sweet for 7 years [is read]. They withdraw. *Ordered*, that Col. Fitzgerald have leave to bring a saving of his right, to be considered tomorrow. On 10 March (E. Stamford in the Chair) the Parties were called in. *Col. Fitzgerald* refuses to offer any Proviso, as was yesterday directed, but offers a Proposal, which he says was made to Sir Thomas Powys. The Proposal was read and given him back. *Ordered* to report matter of fact.

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* No. 729.

(Com. Book.) The Bill was reported the same day without amendment, but after a debate, the third reading was negatived without a division. (MS. Min.; L. J., XV. 284.)]

724. March 4. Expiring Laws (Licensing Act, &c.) Continuance Act.—Petition of several Booksellers, Bookbinders and other dealers in books and printing. Pray to be heard against the Bill, brought up from the Commons, for the reviving, continuing and explaining several laws therein mentioned, which were expired or near expiring, one of which is an Act for Regulating of Printing, &c.,* containing some Clauses which Petitioners conceive to be very injurious to trade, and an encouragement to monopolies and other grievous oppressions contrary to equity and justice. *Signed*, on behalf of themselves and divers others, by Charles Brown, Joshua Waterhouse, Robert Crofts, John Allen, John Ford, Sam. Cook, Robert Terry, Samuel Hurst, Peter Parker, Francis Robinson, Edward Moore, Paul Griffith, Peter Richmond, William Hull and John Browne. [Read this day, and referred to the Committee on the Bill (L. J., XV. 275). The Bill was brought from the Commons on 28 Feb., and read 1ª on 3 March (L. J., XV. 252, 271). A Select Committee had been appointed by the Lords on 12 Dec. 1692 to inspect such Acts as would expire at the end of the Session (L. J., XV. 144). This Committee was "revived" on 15 Dec. (MS. Min. No entry in L. J.), and met on the 16th, with the Bishop of London in the Chair, but only to adjourn till the next day. (Com. Book.) No further proceedings are recorded.† In Committee on the Bill on 6 March (E. Bridgewater in the Chair), the Bill was read by paragraphs. First enacting Clause postponed. A Clause relating to poor Prisoners is offered. A Clause relating to Quakers taking Administration, &c.

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* With reference to the libel "King William and Queen Mary Conquerors," which had been licensed by Bohun, the Censor appointed by this Act, the MS. Min. supply some new particulars. On 20 Jan. 1692–3, information being given of the Book, Bohun and Baldwin, the printer, were ordered to attend. (L. J., XV. 192.) On 23 Jan. 1692–3 *Richard Baldwin* was called in, and asked if he was printer of the Book. He says: "About 17 days since, one Bentley sent me the book in manuscript, and he said, if I could get it licensed, I should have half the profit. I carried it to Mr. Bohun, and left it with him. He called on me the next day, and said he had read it, and it was a very good book, and he longed to have it printed, and he would license it, and he did license the printed book. I procured it to be printed by Mr. Bohun's license. I desired the title might be altered. He said 'No; it will invite the Non-Swearers to read it.'" (MS. Min.) *Ordered* that he be discharged. *Ordered* that Bentley attend this House tomorrow at 10 oclock. (L. J., XV. 195)—On 24 Jan. *Bentley* came to the Bar, and being showed the book, he said: "I know the book. I did not print it. I received it in a letter from the Stamford carrier. The original I have. I sent it to Mr. Baldwin, and Mr. Bohun licensed it, which is all the security we have." He reads the title out of his papers. The print is according to the manuscript; he says it is. He says he knows not who wrote it. The letter received with the book is read. A debate arose concerning burning the book. A book mentioned of this kind. An Answer to Ashton's [?] Speech. *Ordered* that the book shall be burnt by the hands of the Common Hangman tomorrow, between the hours of 12 and 1 oclock. *House moved that a Vote be made in relation to this Case; this a Declaration contrary to the title of the book.* [These words in italics are expunged.] Select Committee appointed, as in L. J., XV. 197, to draw a Resolution upon the debate. [The proceedings of this Committee are not recorded.]—*Eod. die.* E. Shrewsbury reported from the Committee the Resolution, which the House agreed to and ordered to be communicated to the Commons, to whom a Message was sent desiring a Conference for that purpose. (L. J., XV. 198.) The further proceedings are given in L. J., XV. 199, 200.

† A similar Committee had been appointed in 19 and 30 Car. II. (L. J., XII. 120, and XIII. 228), but in the latter case without any report being made.

HOUSE OF LORDS MSS. 1692–3.

without Oath * is read. *Agreed* to the Printing Act, except the first enacting Clause. *Ordered*, that Petitioners and the Printers be heard tomorrow. (Com. Book.)

On 7 March (E. Bridgewater in the Chair), the Booksellers and Bookbinders are called in, as also the Company of Stationers. The paragraph relating to continuing the Printing Act is read. *Mr. Atwood* (for the Booksellers): This Clause is the grossest injury to property that ever was passed in an Act. He offers Affidavits of Peter Parker,† John Guy,‡ and John Ford § concerning the abuse of printing, which are read. He offers a Clause to be added to the Bill, which is read.‖ They withdraw. *Question:* Whether to pass the paragraph? Contents 9; Non-Contents 1. Resolved in the *Affirmative*. First enacting Clause read and agreed to, and ordered to be reported. (Com. Book.)

The Bill was read 3ª on 8 March, when a Rider was offered to be added, concerning searching Peers' houses, but rejected, the Contents being 21, and Not-Contents 25. Tellers: E. Shrewsbury and E. Bridgewater. Another Proviso was then offered to be added, that if the name of the author or printer be added to the book, it may be printed. This Proviso was also rejected; Contents 18, Not-Contents 26. Tellers as before. The Bill was then passed, on question, without a division, but with a Protest against rejecting the Provisos, signed by 11 Peers, of whom E. Shrewsbury was one. (MS. Min.; L. J., XV. 280.) It received the Royal Assent on 14 March. (*Ib.* 288.) 4 W. & M. c. 24., Fol. Ed.]

Annexed:—

(*a.*) 6 March. Clause relating to the Quakers, as follows: "And whereas there are certain persons called Quakers, who scruple the taking any oath in any case, who may be made executors of any will or testament, or ought of right to take administration, Be it enacted, That such person or persons producing a certificate under the hands of six of the congregation to which he, she or they do belong, owning them as such, having good and sufficient witnesses to testify the truth of such will and testament, and solemnly promising to perform the same, shall be admitted to prove such will in the Prerogative or any other Court, wherein such will or testament of right ought to be proved, and make answer in Chancery concerning the same without Oath; And such person or persons producing such Certificate, having right to administration, giving sufficient security that he or she will truly administer and solemnly promise to perform the same, shall be admitted to be an administrator, and be liable by this Act as other executors and administrators of executors and administrators are liable; And in case such person or persons, so solemnly promising, shall be found guilty of breaking their solemn promise, that then such person shall be liable to undergo such pains and penalties as is inflicted upon false or perjured persons, being duly convicted thereof." *Endorsed* as read this day and rejected. [See notes above.]

(*b.*) 7 March. Affidavit of Peter Parker, of London, Stationer, that upon searching about April 1691 the Register-book of the

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* Annex (*a*).

† Annex (*b*).

‡ See 11th Report, Appendix Part II., No. **409**, where the Affidavit is given under the date when it was sworn (5 July 1684), nothing having then appeared to connect it with the proceedings on this Bill.

§ Annex (*c*).

‖ Annex (*d*).

Stationers' Company for several entries of books he had caused to be made therein, the property whereof he had by purchase, license and entry lawfully acquired, viz. (1) Supplications of Saints; (2) Christ's famous Titles; (3) A Cabinet of Jewels; (4) Christ's voice to London, he failed to find the same, but found several leaves rent out of the Register-book about the date or time of the entry of most of the said copies, as appeared to him by the precedent and following entries. Deponent also saw several of his copies entered again to other persons, viz. some of them to Jonathan Robinson, and, as Deponent remembers, another of the books was again entered to Robert Horn. Deponent has been informed, and believes it true, that several Popish books and other scandalous books are now standing entered in the said Register-book. *Sworn* 6 March before Rob. Legard. *Endorsed:* Peter Parker's Affidavit about the Register-book. [Read in Committee this day.]

(*c.*) 7 March. Affidavit of John Ford, of London, Stationer, that about two years since he bought and received from Mr. Hill, Warehouse-keeper to the King's Printing Office, many Cans [? Caen] Bibles and many books of Psalms, which he believes, and has been informed, had been formerly seized by virtue of the Letters Patents to the King's Printers and the Company of Stationers, supported by the Act for Printing. *Sworn* 4 March 1692 before Ad. Ottley. *Endorsed:* John Ford's Affidavit about the selling of seized books by Patentees. [Read in Committee this day.]

(*d.*) 7 March. Provisos relating to printing as follows:—"Provided nevertheless that neither the said Act nor anything therein contained shall extend, be deemed or taken to give force or confirmation to any Letters Patents to the prejudice of the property or properties of any person or persons in any book, pamphlet or paper already printed or hereafter to be printed, and that no owner or owners of any book, pamphlet or paper shall lose his right by reason of any false entry or entries in the Register-book of the Company of Stationers in the said Act mentioned. Provided also that no Bible, Common Prayer Book or Psalms, at any time past seized by virtue of the said Act and sold by the seizor or seizors, or any other person or persons with his or their privity, shall be liable to any farther or other seizure or penalty." *Endorsed* as read this day. [See notes above.]

725. March 4. Privilege of King's Servant (R. Hargrave).—Petition of Richard Hargrave, Esq. Petitioner on 16 Jan. 3 W. & M. was sworn and admitted as one of the Gentlemen of the Privy Chamber in Ordinary to his Majesty, as appears by the L. Chamberlain's certificate, and has ever since so continued. He has been arrested, within the time of privilege of Parliament, at the suit of Robert Richardson, Eliz. Thomas and Charles Napier. Petitioner has had to procure bail for his appearance in the suits of Richardson and Napier, and by force of his arrest in the suit of Eliz. Thomas he is now a prisoner in the Fleet. Prays for his release and for the discharge of his bail. [Referred this day to the Committee for Privileges. L. J., XV. 274. No further proceedings.]

726. March 6. Lotteries Prohibition Bill.—Commons' Engrossment of an Act for the prohibiting the use of all Lotteries. The Bill, which consists of one Clause, is identical with the first three Sections of

HOUSE OF LORDS MSS.

1692–3.

the Act of 1698 (10 Will. III. c. 23., Fol. Ed.), except that the Act omits the words of the Bill included below in square brackets, and adds those in italics,* viz. :—

Sect. i. of Act.

Whereas several [covetous and] evil disposed persons, for [about thirty] *divers* years last past, have [for their own private gain and advantage] set up [several] *many* mischievous and unlawful games called Lotteries, [and] not only in the Cities of London and Westminster and in the suburbs [of] *thereof* and places adjoining, but in most of the eminent towns and places in England and in the Dominion of Wales, have *thereby* most unjustly and fraudulently got to themselves great sums of money from the children and servants of [the] several gentlemen, traders *and* merchants, and from [all other sorts of] *other* unwary persons, to the utter ruin and impoverishment of many [persons, their estates and] families, and to the [prejudice and affront of their Majesties, their] *reproach of the English* laws [good subjects] and government, [and that some of the said persons, the better to cover and perpetuate their said evil practice, have, in the reign of King Charles the Second and since, obtained], *by colour of* several Patents or Grants under the Great Seal of England for the said Lotteries or some of them, [and more particularly for one Lottery called the Royal Oake Lottery, more grievous and mischievous than any of the rest, all] which *said* Grants or Patents are against the [law of the land and against the] common good, trade, welfare and peace of [their Majesties'] *his Majesty's* Kingdoms [and Dominions, many riots and murders having been committed by reason of quarrels happening at the said unlawful games,] For remedy whereof, Be it enacted, *adjudged and declared*, and it is hereby enacted, *adjudged* and declared by the [King and Queen's] *King's* most excellent [Majesties] *Majesty*, etc., That *all such Lotteries and all other Lotteries are common and public nuisances, and that* all Grants, Patents and Licences for such Lotteries or any other Lotteries [and games of the nature of Lotteries] are *void and* against law.

Sect. ii. of Act.

And *be it further enacted by the authority aforesaid* that from and after the [five] *nine* and twentieth day of [March] *December*, which shall be in the year of our Lord God one thousand, six hundred, ninety [three] *nine*, no person or persons whatsoever shall publicly or privately [erect] *exercise*, keep open, show or expose to be played at, [thrown at, or] drawn at, *or thrown at*, or shall draw, play or throw at, any *such* Lottery or [game of the nature of] *any other* Lottery, *either* by dice, lots, cards, balls or any *other* numbers or figures *or any other way whatsoever ;* and that every person or persons that shall after the said [five] *nine* and twentieth day of [March] *December*, *exercise*, expose, open or show to be played, thrown or drawn at, any *such* Lottery, Play or Device or [Game of the nature or kind of a] *other* Lottery, shall forfeit for every such offence the sum of five hundred pounds, to be recovered by information, bill, plaint or action at law in any of [their Majesties'] *his Majesty's* Courts at Westminster, wherein no essoigne, wager of law nor [no] more than one imparlance shall be allowed, one third part thereof to the use of [their Majesties] *his Majesty*, [their] *his* heirs and successors, one other third part thereof to the use of the poor of the [parishes] *parish* where such [offences] *offence* shall be committed, and the other third part thereof, together with [full] *double* costs, to the Party that shall inform and sue for the same, and the said Parties so offending shall likewise be prosecuted as common rogues, according to the [Statute] *Statutes* in that case made and provided.

Sect. iii. of Act.

And *be it further enacted* that every person or persons, that after the said [five] *nine* and twentieth day of [March] *December*, shall play [at], throw [at] or draw at any such Lottery [or game of the nature of Lottery] *Play or Device or other Lotteries*, shall forfeit [and pay a fine or penalty not less than forty shillings and not exceeding twenty pounds] for every such offence [(proof thereof being first made before some Justice of Peace upon oath, which oath the said Justice is hereby empowered to administer)] *the sum of twenty pounds, to be recovered by information, bill, plaint or action at law in any of his Majesty's Courts at Westminster, wherein no essoigne, wager of law nor any more than one imparlance shall be allowed, one*

* The Act, which passed without any amendments in either House, added also a Proviso (Sect. iv.) for the remainder of the term in the Royal Oak Lottery, and another (Sect. v.) for the Charitable Adventure for the benefit of Greenwich Hospital.

third part thereof to the use of his Majesty, his heirs and successors, one other third part thereof to the use of the poor of [such] parish [or place] where such offence shall be committed, *and the other third part thereof, together with double costs, to the Party that shall inform and sue for the same* [such fine or penalty to be levied by warrant under the hand and seal of any Justice of Peace of any county, riding, city, town or place where such offence shall be committed, and for want of sufficient distress, such Justice shall and may commit such person to the common gaol for any time not exceeding the space of thirty days, there to remain, unless he or she shall within that time pay the said fine or penalty, not under forty shillings and not exceeding twenty pounds, to the use aforesaid.]

Parchment Collection. [Brought from the Commons this day, and read 1ª the next. (L. J., XV. 276, 277.) The Bill was read 2ª on 9 March, without hearing the Petitioners against it, as previously ordered on their Petitions; * but the commitment and third reading were then negatived, on question, without a division. (M.S. Min.; L. J., XV. 281.)]

727. March 7. Lotteries Prohibition Bill.—Petition of Henry Acourt, Joseph Arnold, Charles Fitzherbert, Henry Wellington, William Deane and Thomas Chambers. Petitioners have taken a grant of lotteries at a considerable yearly rent for no less than a term of eleven years, and in pursuance thereof have already beforehand paid into the Exchequer for their Majesties' use a great sum of money, and have likewise been at other great charges, so that if the Bill for prohibiting Lotteries should pass, it would not only be to the great loss and detriment of Petitioners, but also of several poor indigent officers, whose support and maintenance depends upon the same. Pray to be heard by Counsel against the Bill. [Read this day and Petitioners ordered to be heard by Counsel. L. J., XV. 278.]

Annexed:—

(*a.*) 8 March. Petition of the Lady Cary, the Hon. Col. Philip Howard, Sir John Osborn, Knt., the Lady Armestrong, Armestrong and Armestrong, her daughters, Col. Henry Evbank, and several other indigent officers and widows and fatherless children, on the behalf of themselves and others. Divers grants have been made to Petitioners of several particular annuities and sums of money charged on the yearly rent of 4,200*l.* payable to the Crown by the Farmers of the Royal Oak Lottery, some of which grants have been for valuable consideration and others as acts of charity. Pray to be heard by Counsel against the Bill. *Signed* by Philip Howard, John Osborn, Mar. Cary, Hen. Evbank, Edward Ogar, James Vosper, E. Armestrong and Mallet Slingsby. [Read this day and Petitioners ordered to be heard. L. J., XV. 280.]

(*b.*) 8 March. Petition of Colonel John Vaughan. There being due from their present Majesties to Petitioner and tradesmen employed by him on their Majesties' account 3,050*l.*, for which he was sued by them in Westminster Hall and they recovered the same against him, and he is forced to pay the same out of his own estate and is now charged therewith, their Majesties, in consideration thereof, by Letters Patent of 21 May last, granted to Chas. Duncombe, Esq., in trust for Petitioner, an annuity or yearly pension of 300*l.* a year out of the rent reserved out of the Royal Oak Lottery. The Bill makes no provision for satisfaction of Petitioner's debt. Prays to be heard by Counsel before it passes. [Read this day and Petitioner ordered to be heard. L. J., XV. 280.]

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* *See* No. **727.**

HOUSE OF LORDS MSS. 1692–3.

728. March 7. E. Huntingdon's Privilege (Beesley).—Affidavit of John Peake, of Loughborow, in the county of Leicester, Yeoman, as to distraint by John Beesley of the cattle belonging to several tenants of the Earl of Huntingdon. *Sworn* 17 Oct. 4 W. & M. before Hugh Bateman. [Read, together with Annex (*a*), this day, and Beesley ordered to attend on the 9th. (MS. Min.; L. J., XV. 278.) No further proceedings.]

Annexed:—

(*a*.) 7 March. Similar Affidavit of Elizabeth Heanes, wife of Thomas Heanes of Loughborow, Wheelwright. States that Beesley, when remonstrated with, replied to Deponent, "You talk nothing. My Lord is in the Tower, and may have his head chopped off, and then where must I have my money?" *Signed* by Deponent, her mark. *Sworn* 17 Oct. 4 W. & M. before Hugh Bateman.

729. March 7. Sea-water Freshening (Walcot's Patent) Bill.—Petition of Robert Fitzgerald, Esq., James Bridgeman, Esq., and others. Petitioners having Letters Patent from King Charles II. for the invention of making Sea water fresh, which Letters Patent are not yet expired, one Mr. Walcott is endeavouring to procure a Bill for the said invention for his own use. Petitioners were served only yesterday with the Order annexed, and have not had time to instruct Counsel, and the Lords Committee have this morning gone through the Bill. Pray to be heard at the Bar before the Bill passes. *Signed* by Rob. Fitzgerald. [Read this day, and Petitioners to be heard in Committee on the Bill. L. J., XV. 278. *See* No. **723** and notes thereto.]

Annexed:—

(*a*.) 6 March. Order of Committee, made this day, appointing tomorrow for the further consideration of the Bill, and directing notice to be given to Col. Fitzgerald and other persons concerned. [Appended to preceding.]

730. March 8. Trade with France Prohibition (Privateers, &c.) Act.—Petition of Thomas Chambers, John Frank and Samuel Lockley, on behalf of themselves and others concerned in privateers. The Bill for continuing the Acts prohibiting all trade and commerce with France, and for the encouragement of privateers, will be very prejudicial to Petitioners and greatly discourage the English privateers. Pray to be heard by Counsel against it. *Signed* by above-named and also by Tho. Doughty, Jno. Clayton, James Durnford, Hugh Reason, Jno. Bateman, Tho. Smith, Hump. Simpson, John Barber, W. Collier, Mich. Fallet, Francis Minshull, James Smith, James Clarke and Samuel Eyre. L. J., XV. 280. [The Bill was brought from the Commons on 6 March, and read 1ª the next day (L. J., XV. 276, 277). In C. W. H. on 9 March, L. Godolphin in the Chair, Counsel were called in. *Sir Bartholomew Shower* (for Petitioners): The Bill provides that, if a ship be taken, it shall be no prize. Now this is worse than before, and this prize comes to the King, and that they may have the advantage of the capture, though in port. If an English ship be retaken, then it shall be restored, paying the salvage. Recaption gives it the title of prize, if it has been 24 hours in the enemies' hands. It gives but half to the privateers of all Owlers and Woollers, and now they have the whole. *Mr. Walter Hochan*[?] (for the Privateers): It is now placed in the Exchequer, which were in the Admiralty, and the Admiralty sits every week, and the Exchequer but in Term time. *Dr. Oldish* [appears]

for the Admiral that his jurisdiction should not be hurt. Though there is no Admiral now, yet there may be. Counsel then withdrew, and the Committee then agreed to the Bill, with amendments, to the end of Sect. xi.—On 11 March the House went again into Committee. *Moved* to call in Sir Charles Hedges as to this point—the two-tenths to the Lord High Admiral.* [House resumed, and *L. Godolphin* reported that the Committee desired the direction of the House whether Sir Charles Hedges shall be heard. *Ordered* that he may attend to be called in, if the Committee think fit. House again in Committee.] The remainder of the Bill was then agreed to. *Moved*, to add a Clause concerning the price of wine. House resumed. Bill reported with amendments, which were amended and agreed to; Bill read 3ª with the amendments and passed and returned to the Commons. (MS. Min.; L. J., XV. 285.)

The Lords' Amendments, which are set out *in extenso* in C. J., X. 849, were to omit the words in square brackets, and to add those in italics, in the following portions of the Act, viz.:—

(1.) Sect. i., Line 8 (Fol. Ed.) . . . shall continue and be in force during the term of three years, *if the present war with France shall so long last*, to be accounted from . . .

(2.) Sect. ii., Line 15 . . . until such time as the same shall be adjudged lawful prize, *except where it shall appear to the Judge of the Admiralty that the goods taken are perishable, in which case the said Judge shall take bail for such goods, in order to the sale thereof, in the same manner† as he might have done before the making of this Act,‡ yet so as to be subject to such distribution as is particularly provided by this Act.*

(3.) Sect. xi., Line 7 . . . to be paid by the [Commissioners for Prizes out of their Majesties' share of Prizes] *Collector of their Majesties' Customs in any port,§ upon due proof made of the same before the Chief Magistrate of the said port.*

(4.) Sect. xii. (added as Clause A)‖:—*Provided always and be* it *enacted that if the* [*Collector of Customs*] Commissioners for Prizes *shall not pay any sum or sums of money*, or give a Bill or Bills *payable* out of the first money that shall come to their hands, *to the persons interessed in private men-of-war for the reward hereby given them of ten pounds a gun by the space of three days after the same ought, by the true intent of this Act, to be paid and demand thereof made, free of all charges, fees and deductions whatsoever,* [*or give a Bill payable upon the Custom House in London for the same*] *in such case the said* [*Collector*] Commissioners *shall be made incapable of any office in their Majesties' service for the future.*

The Commons agreed to Amendment (1) without amendment, and to (2) and (4), with amendments, but disagreed to (3), with Reasons, which were delivered at a Conference on 14 March (L. J., XV. 288. *In extenso*). The Lords finally agreed to the Commons' Amendments of

* The MS. Min. entry that follows in square brackets does not appear in L. J., XV. 285. An order had been made on the 10th to hear Sir Charles Hedges this day. (L. J., XV. 284.)

† The words ("in the same manner") were disagreed to by the Commons (C. J., X. 849) and not insisted on by the Lords.

‡ The remainder of this amendment was added on Report, and was further amended by the Commons by adding ("manner of sale and") after ("subject to such"). (C. J., X. 849.)

§ The amendment in C. W. H. was ("of the port"). The re-amendment was made on Report. (MS. Min. 9 March.)

‖ The Commons' Amendments to this Clause (C. J., X. 849) were to omit the italics in square brackets and to add the words in Roman type.

HOUSE OF LORDS MSS. 1692-3.

their Amendments, and the Bill received the Royal Assent the same day. (*Ib.* 289.) 4 W. & M., c. 25, Fol. Ed.].

731. March 11. Crown Office (King's Bench) Act.—Portion of Commons' Engrossment of a Bill for regulating proceedings in the Crown Office of the Court of King's Bench at Westminster. The parchment, which formed originally the concluding portion—*i.e.* Press 2, line 9, *ad fin.*,—of the Engrossed Bill, as brought from the Commons, from which it has been cut, runs as follows:—

" . . . whereof, Be it enacted by the authority aforesaid, that if any person or persons within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed (except in London and Middlesex and other places within ten miles of London), against whom any judgment or judgments is, are or shall be entered in the said Court upon any indictment or indictments, information or informations in cases only fineable, shall find and procure any responsible person or persons on his, her or their behalf to come and appear in the said Court and then and there undertake to pay such fine or fines as the said Court shall think fit to assess and adjudge, that then no such person or persons shall be forced or compelled to appear in person in the said Court in order to be fined for such his or their said offence, nor shall any process be hereafter awarded against him, her or them for that purpose; And if any person or persons now outlawed, or hereafter to be outlawed in the said Court, for any of the causes fineable only as aforesaid, Then in such cases the person or persons so outlawed appearing by him, her or themselves or by such responsible person or persons in the said Court as aforesaid, and undertaking to pay such fine or fines as the said Court in that behalf shall assess and adjudge, shall and may by Attorney reverse such outlawry and outlawries in such manner as he, she or they might have done, if he, she or they had appeared in person before the making of this Act, any law, usage or practice to the contrary in any wise notwithstanding.

"And be it enacted by the authority aforesaid, That any Sheriff who shall retorn any writ of Exigent or proclamation, not having caused proclamation to be duly made as is hereinbefore required, shall forfeit to the party grieved the sum of forty pounds, together with costs of suit, to be recovered by action of debt, bill, plaint or information in any of their Majesties' Courts of Record, wherein there shall be no essoine, protection or wager of law, and no more than one imparlance." *Endorsed:* "Left out as an Amendment* to the Bill for regulating proceedings in the Crown Office, and agreed to by the Commons, 13 March 1692."

Parchment Collection. [The Bill was brought from the Commons 7 March, and read 1ª on the 9th (L. J., XV. 278, 281). It was amended in C. W. H. this day by leaving out the "last clauses" (MS. Min., L. J., XV. 285), and substituting a Clause (Sect. v. of the Act) making the Act continue in force for three years, and from thence to the end of the next Session of Parliament. To these amendments the Commons agreed (C. J., X. 849), and the Bill received the Royal Assent on the 14th (L. J., XV. 289). 4 W. & M. c. 22., Fol. Ed.]

732. March 9. Salwerpe River Navigation Bill.—Commons' Engrossment of an Act for making navigable the River of Salwerpe, in the

* The 10 lines of the Amendment preceding the portion comprised in this parchment, *i.e.* from Press 2, line 46 (C. J., X. 849), appear, under erasure, on the Engrossed Bill, which forms the Act, but are hopelessly undecipherable, with the exception of the first word ("Provided"), and a few other words here and there, which throw no light on the obliterated text.

county of Worcester, and the rivulets and brooks thereto adjoining. The Bill is to the following effect:—

§ i. Whereas by an Act of 13 Car. II., for the making navigable the Rivers of Stower and Salwerpe, and the rivulets and brooks running into the same, in the counties of Worcester and Stafford, power was given to George, E. Bristol, Thomas, L. Windsor and Thomas Smith, Esq., their heirs and assigns, to make the said rivers navigable, and whereas it was proposed that the making navigable the river Salwerpe would be of great advantage to the salt-works in Droitwich, as well as to the public, by importing coals and exporting salt at much cheaper rates than either then or now, and the proprietors of the salt-works were accordingly prevailed upon to allow salt-water, to the value of 2,000*l.*, to the said Undertakers, who expended some moneys, though much less than the sum given, in preparing locks, in order to the navigation, but without proceeding any further, or bringing the same to any perfection, and so it remains to this day; the Bill therefore enacts that the said powers, touching the river Salwerpe only, shall be repealed.

§ ii. It shall be lawful for Charles, E. Shrewsbury and Thomas, L. Coventry, and either of them, their heirs, assigns, &c., to do all things necessary for making navigable the river Salwerpe, at their own costs and charges, and to make use of all the materials remaining in the river, provided by the former Undertakers, without rendering any account for the same in any other manner than is hereafter mentioned.

§ iii. And for that the work of making the river navigable may not prejudice any persons, &c., having any lands or tenements adjoining, the following, viz.: Sir Henry Littleton, Sir John Packington, Sir Walter Kirkham Blount and Sir Francis Russell, Baronets; Sir Rowland Berkley, Sir John Talbot, Sir Thomas Street, Sir Francis Winnington, Sir Thomas Haslewood and Sir John Sommers, Knights; Samuel Sandys, William Bromley, Henry Herbert, Henry Jeffryes, Thomas Foley, Robert Berkeley, Thomas Jolliffe, Francis Sheldon, Henry Townshend, Gerard Danett, Thomas Lowe, John Bearcroft, Edward Bull, Charles Cocks, Thomas Chetle and Thomas Stevens, Esquires; Samuel Hunt, Thomas Hammond, George Atwood, Arthur Bagshaw, Giles Trimnell, Thomas Savage and Henry Toy, Gentlemen; the Right Hon. Richard, Earl of Bellomont, of the Kingdom of Ireland, the Hon. Thomas Coventry, Esq., the Hon. John Gray, Esq., the Hon. William Ward, Esq., Sir Walter Wrotchley, Bart., Sir Henry Goff, Knight, Richard Dowdeswell, Phillip Foley, Edmund Letchmere, Robert Foley, Thomas Foley, jun., Salwa Winnington, Samuel Pitt, William Walsh, Thomas Lench and Thomas Foley, of Stoake, Esquires, are appointed Commissioners, with power to examine witnesses on oath, and to determine by the majority what compensation shall be made (in case the Undertakers under this Act shall not have agreed beforehand with, and satisfied, the parties) for any loss or damage sustained through the undertaking.

§ iv. The said Commissioners are empowered to hear and determine all controversies and questions whatsoever touching the premises, and their determinations shall be binding on all parties concerned, and, after being signed and sealed, shall be taken as good evidence in any Court of Record.

§ v. The said Undertakers, and no others, shall employ barges, boats, lighters and other vessels on the river, etc., and receive all the profits due for the carriage of coals, salt, iron or any other commodities, to be divided and proportioned in such manner and into so many shares as they shall appoint, in consideration of their charges in making and maintaining the river navigable.

HOUSE OF LORDS MSS. 1692-3.

§ vi. Provided that Charles Baldwyn, Esq., and Sir Timothy Baldwyn, Knt., their heirs and assigns, shall retain whatever interest or shares they had under the former Act, and that they, their executors and administrators, shall be paid *pro rata* all charges incurred in making the river Salwerpe navigable, and providing materials for that purpose; and on failure of the Undertakers to assign and confirm to them such interest and shares, and pay to them such charges before 24 June 1694, they, their heirs and assigns, shall enjoy all their interest and claim under the former Act, as if the present Act had never been made.

§ vii. When any of the Commissioners shall die, or otherwise be disabled from acting, or shall signify his wish to retire, the majority of the remaining Commissioners shall elect another in his stead, who shall have equal powers with the rest.

§ viii. And whereas the passage from the river Severn up the river Salwerpe is against the stream, so as all vessels used there must of necessity in some places be pulled, towed, or drawn up by strength of men, lines, ropes, winches, engines or other means convenient for that purpose, it shall be lawful to have and use a foot-path for that purpose on one side only of the river, on giving to the persons, &c., injured thereby, such satisfaction as the Commissioners shall think fit.

§ ix. And for the better maintaining the navigation and the locks, wears, turnpikes, pens for water, cranes, wharves, ways and passages, the Commissioners are required, upon request made to them by the Undertakers, to appoint a time and place for their meeting, giving ten days' previous notice to all persons concerned, and they may adjourn or meet thereafter as they shall see cause; and if the Undertakers or any other person shall refuse, upon due notice given, to appear or to submit to their determinations, they may proceed to hear and determine *ex parte*, and the person grieved by such non-obedience shall recover the matter or thing decreed by action of debt or in the case in any Court of Record to be grounded on this Statute.

§ x. The Undertakers shall defray all the reasonable expenses of the Commissioners in the execution of this Act.

§ xi. The Undertakers shall not begin any of their works on the lands of any person, &c., until a full agreement and satisfaction with the respective lords, owners, or occupiers of the said lands be first had and made by the Commissioners, who shall not give to any person under the rate of 25 years' purchase for lands, or 20 years' purchase for mills taken or destroyed by the Undertakers, the same to be first paid or so secured as the parties therein concerned shall accept, unless in some cases where the lords, owners or occupiers shall refuse to appear before the Commissioners or submit to their decrees, in which cases the Undertakers, after first tendering to such persons so refusing the satisfaction or recompense ordered by the Commissioners, are empowered to commence and carry on their works.

§ xii. The Undertakers shall not do anything to the river or lands adjoining to the damage or prejudice of the salt-springs in the borough of Droitwich.

§ xiii. The Undertakers shall furnish the salt-works in Droitwich and the inhabitants of the borough with coals at not more than 9*s.* 6*d.* per ton, or at a price to be settled by the Commissioners, in case, by reason of the raising of the price at the coal-pits, coals cannot be so afforded at the said borough.

§ xiv. The Undertakers or any other person sued or indicted for anything done in pursuance of this Act, may plead the general issue and give this Act in evidence.

§ xv.

§ xv. The Commissioners shall, before acting, take a prescribed oath before two Justices of the Peace of the county of Worcester, to execute their powers without favour or affection, on pain of forfeiting 20*l.*, half to go to the Crown and half to the person suing.

§ xvi. Anything done in pursuance of their powers by any eleven or more of the Commissioners shall be good, valid and effectual.

§ xvii. No person shall act as a Commissioner, who is an Undertaker or sharer in the navigation. The names of all persons having any share or interest in it shall be entered in a register, to be kept by a person appointed by the Commissioners, and open to inspection *gratis* by all persons concerned, and any person having such share or interest, upon the reasonable request of the owner of any lands or mills adjoining the river, shall within 40 days after such request made, procure a meeting of the Commissioners, in order to make an allowance for any damage done, and in case the person so interested shall neglect or refuse to procure a meeting, the said owners may stop and detain all vessels on the river, together with the goods on board them, until such satisfaction shall be made.

Parchment Collection. [Brought from the Commons this day, and read 1ª on the 11th (L. J., XV. 282, 284). In Committee on 13 March, L. Chandos in the chair, Sir Timothy Baldwyn's Petition (No. **732**) being read, the Parties were called in. The Proviso in the Bill for saving Sir Timothy's and Mr. Baldwyn's rights is read. *Sir Thomas Powys* (for Petitioners): The clause does not indemnify them from suits. This makes us accountants to the new Undertakers, and they may proceed before they pay us *pro rata*. *Mr. Harrington:* This devests an inheritance out of the Petitioners. *Mr. Harris* (for the Bill): Mr. Baldwyn's Counsel drew the Proviso, and Mr. Parker, the Solicitor, consented to it. *Mr. Parker* says he had no power to consent, and never consented otherwise than that he said he would not oppose it. Mr. Baldwyn wrote to him not to consent to anything.—On 14 March, E. Stamford in the chair, the Bill was agreed to as far as Press 6, Line 4 (Com. Book). Nothing further recorded. The Bill, accordingly, dropped in Committee with the Session.]

733. March 13. Salwerpe River Navigation Bill.—Petition of Sir Timothy Baldwyn, Knt., and Charles Baldwyn, Esq., son, heir and executor of Sir Samuel Baldwyn, Knt., deceased. Since the Act of Car. II., giving powers to George, E. Bristol, Thomas, L. Windsor and Thomas Smith, their heirs and assigns, to make navigable the Rivers Stower and Salwerpe, the Petitioners, Sir Timothy and Sir Samuel Baldwyn purchased from E. Bristol all his rights in the rivers for 1,450*l.* Sir Samuel also purchased some part of Smith's rights, and several other persons purchased the rest. Petitioners since then have expended about 4,000*l.*, besides several thousand pounds laid out by others, and more would have been laid out had the late Earl of Plymouth not died. The Bill, which was brought into the House of Commons in the names of E. Shrewsbury and L. Coventry (who are only nominal trustees for others) tends to make void the former Act as regards the river Salwerpe, and to take away Petitioners' rights and also all the materials in the river without any account or satisfaction. The Proviso added in Committee of the Commons, on the Petition of Charles Baldwyn, is not sufficient to protect Petitioners, but leaves them in a worse condition than before, and may expose them to many suits. Petitioners and the present E. Plymouth, who is an infant, are not the only persons concerned in the river Salwerpe. Pray to be heard by

Counsel before the Bill pass. [Read this day and referred to the Committee on the Bill (L. J., XV. 286). *See* No. **733.**

734. March 14. L. Abergavenny's Privilege.—Petition of George, Lord Bergavenny. On the 13th inst., about 6 a.m., one Joseph Godlington, pretending to be a constable and accompanied by one Yates, Dun, St. Leger and others unknown to him, came in a riotous manner to his house, and threatening to break open the doors under pretence of searching for highwaymen, without any legal warrant, rushed into Petitioner's chamber, who was then in bed and asleep, to the great dishonour and scandal of Petitioner and against his known privilege as a Peer. Prays that Godlington and the others may be ordered to appear. *Signed* Bergavenny. [Read this day and rejected. (L. J., XV. 288.) The MS. Min. add that witnesses were examined this day on the Petition. *John Coales:* Yesterday about 6 oclock came a man to my master's house,—Mr. Smith's, an upholsterer's house. My Lord hires the whole house but the shop, and they said they came to search for a highwayman. The man they enquired for had not been there for two or three weeks. I saw Frank East in my Lord's house; he used to come thither. I told him "The man you speak of has not been here three weeks." They told me they must search the house. *Dominick Burke:* He asked for Frank East. I told him he had not been here for three weeks, and then there came three or four more. The constable desired me to acquaint my Lord with it. I went to see if my Lord was awake, and the constable and all came into the chamber. I am my Lord's servant. (MS. Min.)]

735. March 14. Triennial Parliaments Bill.—Lords' Engrossment (as amended on third reading and afterwards by the Commons) of an Act for the frequent calling and meeting of Parliaments. *Marked* "Le Roy et le (*sic*) Reyne se avisarunt." *Parchment Collection.* [Royal Assent refused this day. (L. J., XV. 289). For the contents of this Engrossment *see* No. **660.** Annex (*a*) and notes thereto.*]

Annexed:—

(*a.*) 10 Feb. Commons' Amendments to the Bill. [Agreed to by the Lords this day. (L. J., XV. 223). *See* notes to No. **660.** Annex (*a*).]

736. March 14. King's Speech.—His Majesty's Speech on proroguing Parliament this day. L. J., XV. 290. *In extenso.*

737. May 2. Prorogation.—Commission for further proroguing Parliament to 19 Sept. next. *Dated* this day. *Parchment Collection.* L. J., XV. 291. *In extenso.*

738. Sept. 19. Prorogation.—Commission for further proroguing Parliament to 3 Oct. next. *Dated* this day. *Parchment Collection.* L. J., XV. 292. *In extenso.*

739. Oct 3. Prorogation.—Commission for further proroguing Parliament to 26 Oct. inst. *Dated* this day. *Parchment Collection.* L. J., XV. 293. *In extenso.*

740. Oct. 26. Prorogation.—Commission for further proroguing Parliament to 7 Nov. next. *Dated* 24 Oct. *Parchment Collection.* L. J., XV. 294. *In extenso.*

* This Engrossment is *verbatim* the same as the Bill introduced in the Lords on 1 Dec. 1693, except as to the date for the determination of the existing Parliament. *Comp.* 6 & 7 W. & M. c. 2., Fol. Ed.

INDEX.

A

Abbott, Henry; 195.
Mordecai; 50.
Abeel, John; 275.
Joanna; 275.
Abercorn, Charles, Earl of (of the kingdom of Scotland), and Baron of Straban (in Ireland); 71.
Claudius, Earl of, &c.; 71.
Abergavenny, Bergavenny, George, Lord, privilege; 390.
Aberglaseney; 49.
Abingdon, Earl of; 247.
Abjuration Bill; 304.
Abnet, Katherine; 264.
William; 264.
Accounts Commissioners; 129–178.
African Company, dividend of; 142.
aid; 130, 131, 144, 146, 162, 172, 173, 177.
alienations; 140.
ambassadors, envoys, &c.; 139, 165, 175.
baronets; 144.
Bombay rent; 144.
bonds; 148.
Barbadoes revenue; 144.
Civil List; 135, 163, 176.
coinage; 134, 148, 174.
—— and Customs accounts; 148–153.
coiners and clippers; 141, 165.
consuls; 151, 165.
Cornwall, Duchy of; 140.
Custom House; 162–165.
Customs and coinage, accounts of; 148–153.
Customs; 130, 131, 133, 134, 148, 149, 162, 172, 173, 174, 177.
debentures; 155.
debenture, portages and allowances; 149.
East India Company, dividend of; 142.
East India Goods; 130, 131, 134, 152, 153, 155, 172, 173, 177.
Exchequer; 165, 168.
—— issues of the; 135, 137, 139, 141, 143, 145, 147.
—— payments into; 149, 153, 155, 161.
Accounts Commissioners—*cont.*
Excise, account of the; 154–159.
Excise; 162, 164.
—— additional; 130, 131, 138, 146, 155, 156, 159, 172–174, 177.
—— double, 136, 156, 157, 159, 174.
—— hereditary and temporary; 130, 131, 136, 138, 154, 155, 159, 172, 173, 175, 177.
—— old; 174.
—— temporary; 131, 138, 154, 155.
Excise Office; 165.
farthings, sale of; 142.
fines on leases; 142.
first fruits; 140.
free gifts; 141, 165, 170–172, 175.
gardens; 141, 165, 175.
Hanaper; 144.
hearth money; 144, 146, 162.
imposition, account of the new; 152–155.
impositions; 133, 174, 177.
imprest money; 142.
jewels and plate; 141, 165, 175.
King's Bench fines; 144.
lands seized; 142.
law suits; 141, 165, 175.
letter money; 138, 174.
lighthouse; 144.
loans and repayments; 130.
lotteries; 140.
the Mint; 139, 163, 175.
out ports; 148.
pensions; 141, 149, 151, 157, 161, 175.
pensions at the Exchequer; 165.
—— Custom House; 165.
—— Excise Office; 165.
—— Post Office; 165.
pensioners, band of; 139, 165, 175.
plantation goods; 148.
poll; 130, 133, 144, 146, 162, 172–174, 177.
port of London; 148.
post fines; 144.
post fines, farmers of; 143, 165, 175.
Post Office; 130, 162, 164, 165, 174–176.
—— account of the; 160–163.
Privy Purse; 137, 163, 175.
Receivers; 141, 165, 175.
Receivers General; 142.

Accounts Commissioners—*cont.*
Receipts and Issues at the Exchequer, Custom House, and Excise Office; 131.
redemption of captives; 143, 165, 175.
rents on grants; 140.
rent on land; 142.
rent paid; 139, 165, 175.
salaries; 143, 149, 159, 163–165, 175.
—— particulars of; 166–168.
sale of land; 144.
—— of wool; 144.
sea coals; 144.
secret service; 137, 161, 163.
Secretaries of State; 149.
sheriffs of cities; 140.
—— of counties; 140.
small branches; 140, 162, 174.
temporalities; 144.
tenths; 140.
tidesmen, watchmen and porters; 149.
tobacco stalks; 143, 165, 175.
—— and sugar, 134, 154, 155.
wines, low; 138, 156, 157, 159, 174.
wine and vinegar; 134, 152, 153.
works; 141, 165, 175.
wrecks; 142.
Commissioners' Bill; 50.
Acourt, Henry; 383.
Adams, Mr., 331.
Benjamin; 249.
John; 288–290.
Robert; 76, 353.
Admiral, Lord High, of England; 325, 326, 385.
Admiralty, the; 384.
judge of the; 385.
Lords of the; 180.
Secretary of the; 326.
Court of, in India; 326.
Office; 179.
See Russell.
Adrian, Thomas; 248.
Adriens, or Adrians, Lawrence; 192.
Adventure, charitable. *See* Greenwich.
Advice, address of; 179, 187–198.
address of. *See* Nation.
Ady, John, deputy chamberlain of the Exchequer; 153.
Africa; 73, 314, 315.
African Company, Royal; 142, 314.
See also Accounts Commissioners.
Aid. *See* Accounts Commissioners.
Ailesbury, Earl of. *See* Aylesbury.
Alban Hall, Thomas Bouchier, principal of; 376.
Albemarle, Duke of; 1.
Christopher, Duke of; 91.
George, Duke of; 91, 92.
Duchess of; 92, 93.
Aldborough; 109.
Aldenham, William; 172.
Alderney, the Race of; 182, 211.
See Ornay.
Aldersgate; 40.
Street; 297.
Alderwasley; 123.
Aldgate, Samuel; 109.
Aldham, William; 170.
Aldworth, William; 172.
Ale, duties on; 77.
Alford, Daniel; 290.
Algiers; 286, 287.
the Government of; 286.
British Consul at; 286, 287.
Consul at. *See* Baker.
slaves at; 287.
ransom of English captives; 286.
men-of-war at; 287.
war; 240.
Alienations. *See* Accounts Commissioners.
Allart, Wessell; 197.
Allegiance, Oath of; 127.
Allen, Bellamy *v.*; 115.
James; 313.
John; 189, 191, 379.
Allin, Jos.; 207.
Almond, Thomas; 109, 355.
Almonde, Admiral; 204, 210, 211, 240, 245.
Alnage (Customs Collection) Bill; 33–44, 334–336, 339–341.
farmers of the; 339–341.
petition of Frances, Duchess of Richmond and Lenox, and other farmers of Aulnage; 34–44.
proposals from the clothiers; 35.
petition of weavers of Norwich; 36.
Duchess of Richmond's proposals; 39.
yearly value of alnage; 42.
table of subsidy and aulnage; 43.
Alnager, Aulnager; 33, 36, 38, 39, 42.
deputy. *See* Mouncke.
Amant, Alexr.; 193.
Ambassadors. *See* Accounts Commissioners.
Ambross, Cornelius; 194.
America; 11, 73.
plantations in; 73.
Ames, John; 123.
Amesbury; 272.
Amore, Henry; 195.
Amsterdam; 115, 240.
Anderson, Andrew; 22, 27.
George; 193.
Andrewes, Mr.; 121.
Math.; 178.
Ange, Thomas; 303.
Anglesey, Arthur, Earl of; 366.
Countess Dowager of; 171.
Annesley, Francis; 371, 372.
Appersfield *alias* Appulderfeild, co. Kent; 320.
Appleby, Stephen; 286.
Appleton, Henry; 337, 338.
Appulderfeild. *See* Appersfield.
Ardglasse, Katherine, Countess of; 370, 372.
Arguis, or Arguies, Emery; 22, 27.
Arlington, Lord; 114.
Army; 135, 163, 175, 176.
Irish; 135, 175.
Secretary to the. *See* Blathwaite.

Arms, gentleman at; 166.
Armestrong, E.; 383.
T.; 244.
Lady; 168.
—— and her daughters; 383.
Arnold, Anthony; 364, 365.
Joseph; 383.
Richard; 55, 57.
Thomas, LL.D.; 99.
Artillery, field; 196.
train of; 181, 186.
Ashburnham, Lord; 83, 187, 364.
Ashby, Sir John, Admiral; 179, 181, 182, 206, 210–215, 219, 220, 223, 225, 234, 245.
Champion, *v.* Crawford; 303.
Champion; 353.
Ashfeild, Sir John; 366.
Ashurst, Sir Thomas, sheriff; 82.
Asia; 73.
Astin, John; 43.
Astley; 85.
Aston, Thomas; 86.
Astrey, Sir James; 267.
Atherton, Charles; 167.
Atkins, Job; 171.
Atkinson, Capt.; 199, 201.
James; 235.
John; 320.
Samuel; 201.
Atkyns, Sir Edward; 13.
Sir Richard; 13, 14.
Sir Robert; 111.
Lord Chief Baron; 79, 80, 82, 89, 90, 103, 104, 252, 337, 343, 352, 354.
Sir Robert, Speaker of the House of Lords; 120, 122.
Sir Robert, K.B., Chief Baron, and Speaker of the House of Peers, *v.* Lycott (Privilege); 254, 255.
Sir Robert, Lord Chief Baron, Tooke *v.*; 11–14, 258, 259.
Thomas, a labourer; 81, 82.
Attorney-General; 32, 79, 85, 92, 93, 111, 113, 123, 166, 268–271.
See East India Company. Sawyer. Sommers. Treby.
Attwood, Abel, Estate Act; 249.
Atwood, Mr.; 380.
George; 387.
Aubrey, Anne; 169.
Audley, Capt.; 235.
Aulnage. *See* Alnage.
Austen, John; 28.
Austin's House; 338.
Authors, Thomas; 84.
Auverquerc, Mons.; 187, 188.
Avery, William; 167.
Awbery; 330.
Axton, Thomas; 341.
Aylesbury, Ailesbury, Earl of, 248, 280, 297, 298.
privilege; 272.
Aylmer, Capt. Math.; 228.
Ayloff, Henry, King's Remembrancer; 153.
Ayott St. Lawrence; 318.

B

Baber, Sir John; 320.
Babington, Anne; 170.
Back Stairs, pages of the; 168.
Backway, Henry; 56.
Backwell manor; 273, 274.
Badely, —; 291.
Badily, Simon; 60, 61.
Baggot, Alice; 170.
Bagnall, Dowley *v.*; 100–102.
Dudley; 70.
George; 101.
—— deceased; 101.
Bagshaw, Mr.; 273.
Arthur; 387.
Bagshot Range; 168.
Bailey, the Old; 82.
Baker, Anne; 169.
Capt.; 169.
J.; 343.
John; 321.
Richard; 321.
Thomas, consul at Algiers; 151.
Baldwin, Richard; 379.
Baldwyn, Charles; 388, 389.
Sir Samuel; 389.
Sir Timothy; 388, 389.
Ball, Charles; 191.
Balle, Cha.; 341.
Ballett, Newton *v.*; 93.
Dr.; 93.
Dr. Charles; 94.
John; 93, 94.
—— and Mary his wife; 93, 94.
Ballow, Henry, deputy chamberlain of the Exchequer; 153.
Baltemore, Lord, *v.* Blakiston; 373–376.
Charles, Lord; 373–376.
Cecil, Lord; 373.
—— his daughter Mary; 373.
Banbury; 121.
Earl of; 269, 305.
claim to peerage; 305, 306.
Charles Knowles, Earl of; peerage claim; 267–271.
William, Earl of; 268.
Countess of; 268.
Bancke, Richard; 341.
Bangor, Humphrey, Bishop of, Act for; 316.
house, London; 316.
Bankes, Matthew; 167.
Bankrupts, Commissioners of; 28.
Banman, Thomas; 193.
Bantham, Andrew; 81.
Barbadoes, Island of; 11, 303.
revenue. *See* Accounts Commissioners.
Barber, John; 384.
Barcrofts *alias* Thonock; 333.
Bardoe, Charles; 356.
Barebone, Sarah; 111, 112.
Barfleur, Cape, Cape Fleur; 211, 242.

Barges, Master of the; 167.
Barker, a captive [at Algiers]; 287.
John; 191.
Richard; 195.
Barnard, George; 190, 193.
Henry; 320.
John; 108.
Barnardiston, Sam.; 178.
Barnes, Henry; 59.
William; 194.
Barney, John; 252.
—— Elizabeth his relict; 252.
Thomas; 252.
Barnstaple; 238.
Bayes. *See* Bayes.
Baron *v.* Sir W. Haward; 323–325.
Christopher; 323, 324.
George; 323.
William; 323, 324.
Baron, Lord Chief; 8, 35, 310.
—— *See* Montague.
Lord Chief, of the Exchequer. *See* Atkyns.
Baronets. *See* Accounts Commissioners.
Barret, John; 293.
Thomas; 291.
Barrington, Abraham; 323, 324.
Barry, Richard; 371.
Bartlet, Jane; 168.
Barton, Abel; 189.
Thomas; 98, 99.
William; 109.
the town of Oundle, &c., *v.*; 98–100.
Barton, manor of; 320.
Bass, Richard le, marshal of ceremonies; 166.
Basse, Isle of; 213.
Basset, Sir William; 330.
Bastian, Martha; 170.
Bateman, Hugh; 384.
John; 384.
Lady; 27.
Bath, Earl of; 87, 91–93, 161, 166, 167, 169, 364, 429.
William; 108.
Bathurst, Sir Benjamin; 50.
Battle, co. Brecknock; 49.
Battles Walk. *See* Windsor Forest.
Batty, Thomas; 7.
Bavaria, Elector of; 62.
Bawdon, Dame Letitia; 314.
Sir John; 314, 315.
Baxter, Dorothy; 260, 262.
John; 190, 194.
Bayes, Bays; 42, 43.
Bayley, Bayly, Edward; 29.
James; 194.
Sarah, *v.* Ann Robson; 29–31.
William; 25.
Bayntun, Henry, Estate Act; 327.
Lady Anne; 327, 328.
Beachampton; 367.
Beachy Head; 210, 213, 218.
Beake, Abraham; 95.
Beale, George; 333, 334.
James; 276.
Joanna; 276.
Nath.; 42.
Bearcroft, John; 387.
Beardsworth, John; 193.
Beaubuisson, Peter Guenon; 190.
Beaufort, Duke of; 2, 121, 298.
Beaumont, Capt. Basil; 224, 228.
Beaw, William, Bishop of Llandaff; 15, 16.
William, LL.B., *v.* Jones; 15–17.
Beck, James; 195.
John; 195.
Beckman, Sir Martin; 189, 193.
Bedchamber, gentlemen of the; 168.
grooms of the; 168.
Bedford, Duke of; 87.
Bedford Level; 67, 282, 283.
Beer, duties on; 77.
Beesley, John; 384.
Beex. *See* Bex.
Belcastel, Col., his regiment; 188.
Bell, Margaret; 291.
Bellamy, Clement; 98, 99.
John; 115, 168.
William; 115.
Bellasis, Sir Henry; 188, 239.
his regiment; 188.
Bellemont. *See* Belmont.
Bellew, Walter; 70.
Belmont, Bellemont, Bellomont, Earl of, treasurer to Her Majesty; 135, 163, 175.
Richard, Earl of; 387.
Belvoir; 122.
Belwood, Mr., serjeant; 334.
Benbow, Capt.; 238.
Bendlowe, Thomas, Master in Chancery; 375.
Bengal; 326.
Benhomme, Thomas; 193.
Bennett, Bennet, Robert; 190.
Sir Simon; 367.
Benoyest, or Benoyt, James; 194.
Benskin, Charles; 26.
Thomas; 26.
Benson, George; 193.
John; 195.
Nicholas; 195.
William; 341.
Bentley, —; 379.
Berdoe, Charles; 76.
Bergavenny. *See* Abergavenny.
Berkeley, Lord; 79, 280, 281, 287, 298, 305.
Robert; 387.
Berkley, Sir Rowland; 387.
Berks [county of]; 15, 42, 267.
Earl of; 121.
Berkshire, Earl of; 298.
Bermudas, Governor of. *See* Richier.
Bermudas Back; 330.
Bernardiston, Sir Samuel; 109.
Berry, Thomas; 81.
William; 81, 356.
—— his wife Apollina; 356.
v. Yates; 356.
Berry Point; 213.
Bertie, Hon. Charles, Treasurer to the Ordnance; 135, 163, 168, 189, 350, 351.
Berwick-upon-Tweed; 5, 6, 54, 65, 73, 153, 189, 190, 196, 304, 359, 360, 386.

Best, Richard; 293.
Betts, William; 108.
Beveridge, Col.; 188.
Beverley, Thomas; 271.
Beverley fair; 101.
Bex, Beex, Elizabeth; 275–277.
Bibles; 381.
Bideford, Biddeford; 198, 199, 201, 225, 238.
Bidgood, Dr.; 1.
Bigg, William; 317.
Bilboa; 204, 205, 206.
merchantmen from; 215, 222, 223.
Billmore, —; 85, 86.
Billop, Capt. Christopher; 227.
Bills, Peter; 192.
Birmingham; 191.
Free School Bill; 51–53.
Grammar School; 252–254.
—— schoolmaster John Hicks; 253.
Bishopgate; 373.
Bishopp, Thomas; 293.
Bishopps Lydiard, co. Somerset; 329, 330.
Bishops to be heard as to Divine Law [in Divorce]; 23.
Black Rod; 7, 94, 187, 294.
See Duppa.
Blackall; 320.
Blackborne, Robert; 326.
Blackerby, Mr.; 107, 358.
Blackler, John; 189.
Blacktayle; 209.
Blackwell, George, Secondary in the Exchequer; 166.
Blackwell Hall; 38, 40.
Blagwitz, Jacob; 190.
Blake, James; 341.
John; 189.
Richard; 191.
Thomas; 355.
Blakiston, Sir Francis; 374, 375.
Sir William; 373–376.
—— his wife Dame Mary; 373, 374.
Blathwait, William; 166.
Blathwaite, Mr., Secretary to the army; 179, 187.
Blencow, Wm.; 376.
Blockley, co. Worcester, fairs and coney warren in; 364, 365.
Blount, Sir Walter Kirkham; 387.
Bludworth, John; 341.
Blue Mantle. *See* Lennard.
Blundell, Sir Francis; 371, 372.
Blyton, Mathew; 190.
Bocock, Mary; 170.
Bodington, Robert; 341.
Boesom, or Boesum, Henry; 191.
Boet, or Bott, John; 192.
Boevey, Andrew; 275.
—— his wife Joanna; 275.
James, *v.* Dame Anne Smyth, wid.; 275–278.
John; 275–278.
—— his wife Elizabeth; 276–278.
Mary; 275, 277.
William; 275, 276.
—— Anne his widow 275.
Bohemia, Queen of; 185.
Bohun, Edmund; 108.
the Censor; 379.
Bokenham, Capt. William; 228.
Bolton, Randolph; 42.
Duke of; 298.
—— privilege (P. Ryley); 64.
Bombay, rent of. *See* Accounts Commissioners.
Boncour, Col.; 188.
Bonneale, Jeremiah; 326, 327.
Bonnell, Anne wife of David; 275.
Bookbinders; 379, 380.
Booksellers; 379, 380.
Boom, John de; 192.
Bootum, James; 193.
Boreman, Thomas; 195.
Borgarett, Albert; 197.
Boscawen, Lord H.; 87.
Boskin, Major; 169.
Bostock, Thomas; 321–323.
—— his widow Penelope; 323.
—— his children William and Mary; 321–323.
Thomas (a cousin); 321–323.
Bott. *See* Boet.
Bouchier, Thomas, principal of Alban Hall, Oxford; 376.
Boukler. *See* Boutcler.
Boulter, William; 190, 196.
Boulty, Thomas; 219.
Bourne, Thomas; 282.
v. Stone; 365.
Bourton; 365, 367, 368.
Boutcler, or Boukler, Abraham; 192.
Bovington; 337, 338.
Bowell, Nicholas; 108.
Bowes, George; 375.
Jo.; 368.
P.; 84, 94, 289.
Bowling Green at Henly; 268.
Bowman, Robert; 252.
Bowtell, William, *v.* Appleby; 286–288.
Bowyer, Thomas; 249.
Boxall, Anthony; 321.
Boyd, John; 341.
Boyer, Francis; 326.
Boyle, Mr.; 343.
Francis. *See* Shannon.
Mary; 25.
Boyne, Battle of the; 68.
Boynton, Francis; 341.
Boys, Capt. Edward; 227.
John; 121, 353.
Brabazon, Lady Katharine; 83, 84.
Brackenthwaite; 320.
Bradbery, Baron; 166.
Braddy, Thomas; 235.
Bradford; 246.
Bramford, co. Suffolk; 109, 110.
Brampson, Francis; 255.
Brampton, Richard; 190.
Brampton, co. Northampton; 271.
Branch, John; 167.
Brant, Andrew; 192.
Brasted; 319.
Brawman, Christian; 192.
Bray, Lodowick; 168.

Bray Church; 268.
Brazenose College, Dr. Thomas Yate, principal of; 356.
Breac; 218.
Brecon, Grand Jury of; 49.
Brest; 212, 213, 216, 220, 241, 243, 244.
Bretland, R.; 323.
Brewer, William; 37.
Brewster, Sir Francis; 369, 371, 372.
Lady; 171.
Brexton, Charles, and Mary his wife; 111.
Bricks, making and burning; 316.
Bridgeman, James; 384.
William; 195.
Lord Keeper; 256.
Bridger, John; 321.
Bridges, Capt.; 215, 217, 227, 235.
Shem; 315, 316.
William; 50.
auditor; 166.
Bridgewater, J., Earl of; 23, 51, 79, 87, 179–186, 257, 269, 280, 294, 310, 351, 378. 380.
Bridlington; 191.
Brielus, or Briellus, Albertus; 191.
Brienne, Simon de; 166.
Briggs, James; 115.
Thomas; 108.
Brighouse, a trustee; 13.
Brigstock, William; 49.
Brinknal, Mary; 170.
Bristol, a captive [at Algiers]; 287.
Bristol; 198, 199, 225, 237, 238.
Bishop of; 172.
Countess of; 168.
Earl of; 121, 298.
George, Earl of; 387, 389.
Channel; 198.
fair; 37, 101.
Bristow, Bristowe, William; 318.
Brittenstin, or Brittenstein, John George, 191.
Broad Street, Aulnage Office; 44.
Brocke, Joseph, *v.* Cutler, Francis; 252.
Brockhurst, Edward; 321.
John; 321.
William; 321.
Brockman, William; 302.
Broken Wharf. *See* London.
Bromhall, Thomas; 260–267.
—— deceased; 261–267.
—— Warden of the Fleet; 264.
William; 261, 263.
Bromhall's Estate (Fleet Prison) Act, 260–267.
Bromley, King's, manor or lordship of; 11.
Bromley, William; 387.
See Gerard.
Brooke, Fulke, Lord; 247, 248.
Robert, late Lord; 247, 248.
—— his wife Anne; 247.
Brookesbank, Joseph, of London; 40.
Brookesby, Robert; 256.
Brown, Ben.; 357.
Charles; 379.
Edward; 341.
George; 189.
Browne, Dr.; 222.
Mr.; 35.
Edward, *v.* Daniel Mercer; 28.
George; 190, 193.
Sir George; 256.
James; 191.
John; 82, 194, 249, 379.
Phillip; 43.
Richard; 320.
Thomas; 108.
Capt. Thomas; 194.
William; 256.
Browning, Jane; 169.
Bryan, —; 29.
Bryntanger; 95.
Bubb, George, of Stroud; 43.
Buccleuch, Duchess of; 159, 164, 169.
Buckholt; 319.
Buckingham; 367.
Duchess of; 169.
Buckley, John; 7.
Buckmaster, Joseph; 191.
Bucks; 42.
Buckworth, John; 341.
Sir John; 28.
Budgin, Dr.; 312.
Buffkin, Major Ralph; 302.
Bulkworthy, manor of; 79.
Bull, Edward; 387.
Buller, Edward, of Woodalling; 40.
Bullwer, Edward; 41.
Bulstrode, Henry; 320.
Bunce, Lady Anne; 171.
Bunne, or le Burne, Nicholas de; 194.
Burford, Thomas; 37.
Burgan, co. Cornwall; 293.
Burk, ——; 374.
Burke, Dominick; 390.
Burlington, Earl of; 298.
Burne. *See* Bunne.
Burrard, John; 168, 271.
Burrell, P.; 341.
Burrough, John; 323, 324.
Burroughs, Dodd *v.* *See* Dodd.
Burrowes, Charles; 195.
See Dodd.
Burton, Anne; 21–23, 26, 27.
Henry; 76, 353.
John; 191.
Muschamp *v.*; 96.
Philip; 46, 47, 96, 97.
Burton, co. Gloucester; 364.
Busfield, John, of Cateaton Street; 40.
William; 194.
Bush, James; 328.
John; 328.
Paul; 328.
Bushley Manor, co. Worcester; 6.
Buss, vicar of; 169.
Bussleton; 206.
Butchers [not to sell] live cattle; 58.
Butler, Sir James; 10.
Butter and Cheese (Searching and Weighing) Act; 105–109, 353–356.
Butter (Weighing and Packing) Bill; 75, 76.
Buttons (Importation) Bill; 368.
Hair; 368, 369.

Butt, Richard; 6[illegible].
Byng, Capt. George; 229.
Byron, Lord; 298.
Bysick, —; 292.

C

Cabinet of Jewels; 381.
Cadiz; 217.
the Court at, 28, 29.
Cadoule, Francis; 194.
[Caen] Cans Bibles; 381.
Caine, John, of Whitechapel; 60.
v. Coleman; 60, 62.
Cairnes, David; 370.
Calais; 217.
Callemberg, Vice-Admiral; 211.
Calverton; 367.
Camblets; 42, 43.
Cambon, Col., his regiment; 188.
Cambridge; 31, 347.
brewhouse at; 29.
University; 17.
St. John's; 86.
scholarships at; 85.
Cambridge, co.; 313, 319.
sheriff of; 31.
lands in; 29.
Camell, Elizabeth; 22, 27.
Campbell, Mr.; 18.
Campion, William; 320.
Canada; 222.
Cane, Philip de; 195.
Canham, Paul; 43.
Cans Bibles; 381.
Canterbury, Archbishop of; 171.
Prerogative Court of; 330.
Cape Clear; 236.
Cape Fleur [Barfleur]. *See* Barfleur.
Cape Race; 221.
Capel, Sir Henry; 31.
Capell, Sir Henry; 31, 276, 277.
Henry, de Tewkesbury, Lord Capel; 87, 91, 276, 277.
Captives, ransom of English; 286, 287.
Redemption of. *See* Accounts Commissioners.
Carbonnel, Jn.; 341.
Thomas; 341.
Carleton, Thomas; 246.
Carleton, co. Leicester; 271.
Carlisle; 190, 196.
Charles, Earl of; 94, 249, 372.
Carlisle, Eleanor; 171.
Carlos, or Carles, Peter; 194.
Carmarthen, Marquess of; 87, 161, 166. 297.
Carmarthen, county of; 49.
Caroon House; 265.
Carroll, Maurice; 246.
Carter, Rear-Admiral; 201, 209, 211, 212, 215, 216, 218, 234.
Samuel; 253.
Thomas; 191.
Carteret, Lord; 298.
Cartwright, John; 193.
Carverth, Capt. Richard; 228.
Carwell, Col; 26.
Carwen, co. Monmouth; 327.
Cary, Lady; 383.
Casare, John; 192.
Casquetts, Gasketts; 182, 245.
Cass, John; 275.
Castell, Richard, *v.* Stephens; 364.
Castle Madock; 49.
Castle Rising; 22.
Castle Yard (Dublin); 370.
See Holborn.
Cateaton Street; 40.
Cattin, Daniel; 191.
Cattle Bill; 58.
Catton; 320.
Cauch, Peter; 195.
Caumont, de. *See* Monpovillan.
Cavell, William; 59.
Ceremonies. *See* Bass. Cotterel. Dormer.
Certiorari. *See* Quarter Sessions Bill.
Chadwick, Charles; 26.
Chaire, Albean; 50.
Chamber, Treasurer of the; 137, 163, 175.
Chamberlain, Lord; 91, 94, 254, 262, 263, 267, 364, 366, 381, 429.
Chamberlin, Cowdy; 42.
Nicholas; 42.
Chambers, John; 190.
Thomas; 383, 384.
Champante, Sir John; 50.
Chancellor, Lord; 118.
See Finch. Jeffreys. Nottingham.
Chancery, the Court of; 11, 13, 14, 53.
Court of (Review of Cases), Bill; 117.
Masters in; 166.
——. *See* Legard. Nabbs. Ottley.
Six Clerks in; 315.
See Ireland.
Chandos, Lord; 18–20, 23, 253, 378, 389.
Chapman, Charles; 290, 291.
Francis; 82.
Henry; 82.
John; 82.
Chardellan, Chardellon, Jean; 194.
Chards, John Albreet; 197.
Charitable Uses, Commissioners of; 98, 99, 367.
Charles I.; 89, 124.
hospital of; 169.
Charles II.; 8, 45, 46, 73, 74, 86, 100, 124, 127.
his servants; 168.
Charlett, John; 318.
Charlton, John; 168, 179, 180, 189–191, 193, 195, 196.
Chart, Little, co. Kent; 302.
Chatham; 189, 196, 206, 209, 223, 233, 239, 242, 357.
Cheese. *See* Butter.
Cheese, Honey Lane, the; 355.
Chelsea, Upper or Little; 275.
Cheltenham, Nicholas; 189.
Chenyes, chains; 37.
Chepsted; 319.

Cherbourg, Sherbrooke; 211.
Cherbury, rectory of; 84–86.
Chester, Lady Mary; 112, 114.
Chester; 108, 190, 196, 355.
Bishop of; 121.
Chief Justice of. *See* Trenchard.
water; 237, 238.
Chesterfield, Earl of; 372.
Phillip, Earl of; 31.
Chesterton Manor; 290, 291.
Chetham, Ralph, *v.* Humfrey; 333, 334.
Chetle, Thomas; 387.
Chevening; 319.
Chiceley, Sir Thomas, Chancellor of the Duchy of Lancaster; 124.
Childe, Lacon William; 272.
Chilfroome; 331, 332.
Chimney money; 35.
Chippenham, co. Wilts, hundred of; 67.
Chitty, Jonas; 321.
Chiveington, East and West, manors of; 45.
Cholmeley, Sir William, 302.
Elizabeth; 302.
Sir Hugh; 302.
Christ's famous titles; 381.
voice in London; 381.
Christ's Hospital; 169.
Christ Church. *See* Oxford.
Christchurch hundred; 373.
Chunsee, Mons.; 192, 198.
Church, Anthony; 168.
Ursula; 171.
Church, the; 70.
Churches Repair Act; 366.
Churchill, Capt. George; 228, 235.
Col.; 188.
Sir John; 273.
—— his wife Susannah; 273, 274.
Churchill, co. Somerset; 273.
Chute; 272.
George, the elder; 103, 104.
—— the younger; 104.
Katherine; 103.
Cinque Ports; 280, 299, 376, 377.
Civil List. *See* Accounts Commissioners.
Civil Wars, the; 124.
Clancarty, Donough, late Earl of; 72.
—— his grandson, Donough, Earl of; 72.
Clans and Freed, vicarage and prebend of; 49.
Clare, Earl of; 51.
Daniel, Viscount; 72.
Clarendon, Lord; 121, 298.
Clarges, Tho.; 178.
Sir Thomas; 306.
Sir Walter; 91.
Clark, N.; 191.
Samuel; 151.
William; 168.
Clarke, James; 384.
Capt. Rd.; 229.
Thomas; 191.
Claterenboss, John; 198.
Clayton, James; 195.
John; 384.
Sir Robert; 289, 356, 357.
Thomas; 290, 291.
Cleene, or Cleir, John; 192.
Cleir. *See* Cleene.
Clement, John; 170, 260, 262.
Clements, Capt. John; 228.
Clement's Inn; 248, 290.
Clenche, Edward; 109.
—— Mary his wife; 109.
Elizabeth; 109.
Mary; 109.
William; 109.
Clerke, Elizabeth; 111, 112.
Isabella; 111, 112.
William; 194.
Sir William; 96.
Earls of Exeter and Devonshire *v.*; 110–112.
Clerkenwell, St. James'; 81.
Green; 93.
Cleveland, Duchess of; 112, 161.
Clewer; 320.
Cliffinch, William; 166.
Clifford, Sir Thomas; 114.
Lady; 1.
Lord; 121, 364, 372.
Clinton, Edward, Lord; 319.
Sir Edward; 319.
Francis; 319.
Clippers. *See* Accounts Commissioners.
Clive, co. Salop; 84–86.
Closet Keeper to His Majesty; 166.
Cloth Fair; 37, 43.
Cloths; 43.
broad; 42, 43.
ingrained; 42.
medley; 37.
white; 37.
Clothiers, the; 35, 36, 39, 40, 41.
Clough, William; 346, 347.
Coal; 388.
Coal, sea. *See* Accounts Commissioners.
importing; 387.
Coales, John; 390.
Coall, Coale, Capt. Tho.; 227, 237.
Cock, Abraham; 191.
Christopher; 61, 62.
Echard; 194.
Francis; 193.
Isaac; 192.
John; 355.
William; 350.
Cocks, Charles; 387.
Cofferer, the; 137, 163, 175.
Coinage. *See* Accounts Commissioners.
Coiners. *See* Accounts Commissioners.
Coke, William; 326.
Colby, William; 99.
Colchester, Lord; 188.
Colchester Bayes. *See* Bayes.
Colclough, Adam; 68.
Coldmaur in Cardiganshire; 49.
Cole, Mrs.; 56, 330.
George; 28.
James; 82.
John, *v.* Lord Stawell; 54–57.
Jonas; 38.
Thomas; 167.
William; 81.
Coleburne, Robert; 194.

Coleby, Smith, *v.*; 257.
Coleman, William; 61, 62, 64.
—— his widow Sarah; 62.
Caine *v.*; 60, 62.
Colewell, Arthur; 99.
George, and Margaret his wife; 99.
Colinge, Benjamin; 166.
Collation, excessive fees for; 49.
Collens, James; 321.
Colleton, P.; 178.
Collier, Jeremy, clerk; 91.
W.; 384.
Colliers, men from; 224, 225.
Collins, Hospell *v.*; 269.
widow; 169.
Colmore, William; 253.
Colonies, the; 73.
Colson, Thomas; 50.
Colvin, John; 25.
Commissioners, Lords; 118.
Commons, House of; 41, 72, 166.
—— Clerk of the. *See* Jodrell.
—— Speaker of the House of; 280, 281.
—— the Speaker. *See* Trevor.
Compter. *See* Poultrey.
Condy, Margaret; 22, 27.
Coney, Richard; 249.
Coningsby, Lord; 135, 163.
Cöningslex, Earl of; 62.
Conrady, Conradi, George; 194.
Conscience, Court of; 10.
Conyers, Mr.; 30, 312, 331.
J.; 83, 84, 112.
Cook, Grace; 22, 27.
John; 320, 357.
Sam; 379.
Thomas; 22, 27.
Cooke, Edward; 340.
John; 373.
Sir Miles; 353, 355.
Nicholas; 341.
William; 190.
Cooling, Yeoman Usher; 184, 187.
Cooper, —; 59, 313.
John; 195, 312.
Coote, Col., his regiment; 188.
Sir Philip; 83, 84.
——, Lady Elizabeth his wife; 83, 84.
Moore *v.*; 83.
Copley, John; 28.
Corbridge, co. Northumberland; 373.
Cordell. *See* Stone.
Cordy, James; 355.
Cork; 198, 199.
Corker, Mr.; 371, 372.
Cornellus, Seveing; 197.
Cornwall, Cornwell, Capt. Woolfran; 227.
Cornwall, county; 119, 120, 293, 351.
Duchy of, Bill; 74, 349–351, 364.
—— *See* Accounts Commissioners.
Cornwallis, Lord; 4, 13, 36–38, 49–51, 64, 87, 88, 90, 106, 126, 179, 253, 286, 296, 300, 306, 330, 331, 337, 352, 353, 372.
Coroner. *See* Cowper.
Cortleven, or Cortlever, Aron or Arent, 193.
Cotheleston. *See* Cudleston.
Cotter, Robert; 193.
Cotterel, Sir Charles, Master of the Ceremonies; 166.
Cotterstock, co. Northampton; 98, 100.
Cotton, Capt. Andrew; 229.
Sir Robert; 121.
Cottons; 43.
Couch, Reynold; 367.
Coulsea, Mr.; 234.
Council, the; 287.
Clerk of the; 64, 166.
Court, Ecclesiastical; 10, 18, 24, 26.
Marshal; 62.
—— *See* Conscience. Fees. Requests. Westminster.
Courtenay, Sir William; 119, 120.
Davy *v.*; 118, 120.
Courtney, Nicho.; 97.
Covenard, or Covennort, Hendrick; 192.
Covent Garden, St, Paul's; 81.
Coventry, Thomas; 387.
Walter; 50.
Lord; 298.
Thomas, Lord; 387, 389.
Coventry and Lichfield, Bishop of; 86, 247, 288.
Bishop of. *See* Wood.
Coverson, or Goverson, Cornelius; 192.
Coward, Thomas; 320.
William; 57.
Cowper, John, coroner; 81, 82.
Cowse, Alexander; 61.
Cox, Nathaniel; 166.
Thomas; 82.
Coy's troops; 370.
Cradock, Zach.; 321.
Cramer, John; 193.
Cramp, —; 289.
Cranmer. *See* Wood.
Crapes; 37, 39, 42, 43.
Cratford, Christopher; 288–290.
Crawford, Henry, and Anne his wife; 303.
Jeremiah; 189.
P.; 252, 316, 324.
Capt. Robert; 189.
Crawley, Captain; 238.
Creighton, Col., his regiment; 188.
Criche, Miles; 191.
Sam.; 189.
Crispe, Mr., Common Serjeant; 340.
Ellis; 348.
Laude; 170.
Thomas; 277.
Crosse, William; 277.
Crofts, Lionel; 286, 287.
Robert; 379.
Crow, Mr.; 121.
Crowch, William; 341.
Crown, compensation for alnage; 33.
Office; 91, 167.
(King's Bench) Act; 386.
Crowne, Mathew; 192.
Cudham; 320.
Cudleston, Cotheleston; 328, 329, 330.
Culliford, Mr.; 370, 371.
Cullwert, Major William; 91.
Cumberland, Duke of; 298.

Cumberland, county; 319, 320.
Cumwell, co. Kent; 320.
Cunber, William; 313.
Curtis, Cornelius; 195.
Nicholas; 195.
Cust, Thomas; 347.
Custom House; 33, 40, 163, 164, 175, 176, 385.
See Accounts Commissioners.
Customs, the; 64, 73.
See Accounts Commissioners.
collection; 334–336.
—— *See* Alnage.
collectors of; 385.
Cutler, Francis; 252.
Sarah; 252.

D

Dacre, Dorothy, Lady; 319.
Francis, Lord; 319.
Dacre Castle; 320.
Dacres, John; 191.
Dagley, Henry, junior; 22, 27.
—— senior; 22, 27.
Dallison, Lady; 171.
Damer, Henry; 320.
Danby, Lord; 226.
Captain the Earl of; 229.
Danby's Estate Act; 347.
Anthony, his wife; 347.
Joseph; 347.
William; 347.
Danby Wiske; 373–376.
Danes from Ireland; 199.
Danett, Gerard; 387.
Danish forces; 188.
Dantsey, or Dauntsey, co. Wilts, manor of; 67.
Danvers, Dr.; 50.
Danyell, Jo.; 123, 291.
Darby, Lieutenant Bernard; 235.
Darnell, Mr.; 35, 36, 340.
Serjeant; 312, 353.
Dartmouth; 218, 224.
Dauntsey. *See* Dantsey.
Davenant, Alexander; 50, 51.
Davidson, Capt.; 237.
Davies, Frances. *See* Llandaff.
Henry; 371.
P.; 14.
Davile, Henry; 28.
Tryphosa; 28.
William; 28.
Estate Act; 28.
Davis, Jane; 171.
Henry; 372.
Davy, Dorothy; 118–120.
John; 108.
v. Courtenay; 118–120.
Dawes, Edward; 250.
Dawkins, Eliz.; 121.
Dawtrey, James; 320.
Jeffery; 320.
D'Civil, Hester; 170.
Deagle, John; 38.
Deal; 201.
Dealing, Richard; 81.
Dean Forest; 166.
Deane, Drue; 249.
James; 355.
Capt. Robert; 227.
William; 383.
Dear, Thomas; 50.
Dearsley, Mr.; 38.
Death, Thomas; 341.
Deberon, John; 38.
Debts, small. *See* Westminster.
De Carbonnel, Martin; 171.
Dee, John; 320.
Deere, Edward; 191.
Delamer, Lord; 87.
Delavall, Sir Ralph; 201, 209–211, 214–218, 232, 234, 245.
Delawarr, Lord; 90, 305.
Deleau, John; 341.
Delillers, Jacob; 341.
Delme, Peter; 341.
Denbigh, Earl of; 249.
Denew, James, of Mark Lane; 40.
Denmark, Prince and Princess of; 157.
Dennis, Anne; 171.
John; 44.
Mary, *v.* Scudamore; 44.
Dent, George; 373.
Deptford; 200, 231, 236, 238.
Yard; 238.
Derby, Derbyshire; 42, 273.
Derby, Earl of; 169, 258, 298.
Dering, Christopher; 302.
Edward; 302.
Sir Edward, Estate Bill; 302.
Henry; 302.
Dame Mary; 302.
Desbouverie, Sir Edward; 328.
Des Bouverie, Edward; 341.
William; 341.
Descent train; 191, 197.
list of officers, &c., of the; 193–195.
Deserters; 62, 232.
De Vill, Lewis; 171.
Devon, Earl of; 111.
William, late Earl of; 110.
Devon, county of; 15, 31, 42, 119, 267, 328.
Devonshire, Earl of; 87, 91, 305.
—— Chief Justice in Eyre, north of Trent; 168.
William, Earl of; 110.
Earl of. *See* Exeter.
Dickenson, William; 167.
Dieppe; 217.
Dilke, Thomas; 194.
Dilkes, Capt.; 219.
Dilks, Capt. Thomas; 228.
Dingley; 120, 121.
Disabling Act. *See* Papists.
Ditcher, Nicholas, and Elizabeth his wife; 312–314.
Nicholas, *v.* Finch; 312–314.

Ditchfield, John; 268.
Divorce Bill, Duke of Norfolk's; 17–27.
—— *See* Norfolk, Duke of.
Dixon, Christopher; 195.
Dobyns, Mr. William; 28, 30, 56, 85, 95, 104, 111, 113, 324, 325, 330, 331, 364, 365.
Dockery, William; 50.
Docket. *See* Judgments Discovery. Doggetts.
Dockwra, William; 161.
Dodd, Mr. Samuel; 12, 124, 273, 314, 318, 348, 376.
v. Burroughes; 254, 325.
v. Burrowes; 258, 259.
Dodge, Thomas; 189, 195.
Dodsworth *v.* Roberts; 8.
Doegan, Isaac; 192.
Doeling, Joachim; 192.
John Conradi; 192.
Dogger Bank; 217.
Doggetts, Clerk of the; 353.
Dogley, Henry, junior; 25, *cf.* Dagley.
Dolben, Dolbins, Sir William, a justice; 90, 252, 310.
Dolliffe, James; 341.
Domingo, Fardinango; 193.
Domvile, Edward; 107, 108, 355, 356.
Done, auditor; 166.
Dones, Capt. Dan.; 227.
Dormer, John, assistant master of ceremonies; 166.
Robt.; 112.
Dorset, Earl of; 87, 168, 284, 285, 362.
Dorset, co. Dorsetshire; 42, 331, 358.
Dory, Nicholas; 195.
Doughty, Thomas; 384.
Downes, Mr.; 43.
Dover, Capt. Edward; 229.
Henry, Lord; 67.
Dover; 210, 217, 218.
Dowdall, Anthony, and Rebecca his wife, 356.
Dowdeswell, Richard; 387.
Dowley, John, *v.* Bagnall; 100–102.
Downs; 198, 200, 201, 203-206, 209, 210, 215–217, 220–223, 238–240, 242.
Dowth, co. Meath; 70.
Drayton; 23.
Drayton, William; 192.
Dresden in Saxony; 62.
Dring, Simon; 275.
Drogheda, Earl of, his regiment; 188.
Alice, Countess Dowager of; 83.
Droitwich, borough of; 388.
saltworks at; 387, 388.
Druggets; 43.
Drumlangrig, Earl of; 188.
Dublin; 71, 251, 328.
Lord Mayor; 369, 371, 372.
Ducker, William; 61, 62.
Du Faux, or Far, Josias; 194.
Duffield, Andrew; 102.
Francis; 102.
Knightley; 102.
Sarah; 102.
Duffield, royal forest of; 123, 124.
Dugdale, Sir William; 268, 269.
Dugdall, Thomas, of Blackwell Hall; 40.
Dugna, Peter; 249.
Duke, Cecilia; 250.
[Colonel]; 169.
Duke Street, Westminster; 121.
Duleek, John, Lord Baron; 70.
Dulport, Peter; 193.
Dumerisque, Charles; 190.
Dummer, Mr.; 205.
Dun, ——; 390.
Duncalfe, Edmund; 355.
Duncombe, Charles; 383.
Giles; 57, 260.
Dungton; 320.
Dunkirk; 212, 215, 216, 223.
expedition to; 220.
Dunmore, Lord; 91.
Dunstone, John; 193.
Duppa, Sir Thomas, Black Rod; 166, 184, 294.
Du Pre, ——; 170.
Durbain, Mr.; 43.
Durham, county of; 45, 46.
Düringer, Johan Gottfried; 62.
Durnford, James; 384.
Du Ry, or Dury, Theodore; 194.
Dutch, the; 182, 183, 186, 202–205.
ships. *See* Ships.
St. Ubes' Fleet; 215, 224.
war; 240.
Dyeing in England; 38.
Dyer, a scarlet; 38.

E

Eagle, John; 190.
Earle, John; 325, 326.
East, Frank; 390.
East-Cheap, Little; 44.
East Country; 215.
merchant-men; 223.
East India Company; 142, 323.
v. Attorney-General; 325–327.
stock; 321–323.
See Accounts Commissioners.
East Indies; 325, 326, 346.
Eaton College. *See* Eton.
Echlin's regiment, Col.; 188, 371.
Eden, Tobias, Deputy Remembrancer of the Exchequer, 326.
Edisbury, Dr.; 357.
Edward III.; 35, 38, 39.
Edward VI.; 51, 84, 86.
Edwards, Sir James; 171.
Capt. Richard; 228.
Talbot; 190.
Thomas; 192.
Effingham. *See* Howard.
Elections. *See* Parliamentary Elections.
Elfe, Mr.; 26.
Elizabeth, Queen; 8, 84, 85.
Ellenberger, Col.; 188.
Elliot, Alice; 170.
Elizabeth; 166.
Ellis, John; 201.

Ellwood, Margaret; 20–23, 26.
Elmes, Robert; 22, 27.
Elphicke, Walter; 320.
Elves, Capt.; 237.
Elwell, John; 26.
Elwes, Jeremy; 341.
Ely, Isle of; 333.
Eman, Charles; 195.
Emes. *See* Emms.
Emilie, John; 341.
Emmet, Maurice, 167.
Emms, Emes, Capt. Fleetwood; 206, 227, 236.
England, English; 6, 28, 43, 54, 65, 69, 73, 83, 117, 218, 220, 223, 287, 386.
Englishmen to guard the kingdom; 187.
foreign troops in; 184.
master gunner of; 167.
nobility of; 83.
officers; 183.
—— *See* Admiral. Judges.
bow dyeing in; 38.
church of; 61.
—— Protestants dissenting from; 54.
Latin protestations to be translated into; 20
Englefield *v.* Englefield; 254, 256–259, 301.
Mr.; 259.
Anthony; 256–259.
Charles; 257.
Sir Charles; 256–259.
Sir Francis; 256.
Lady Honora; 256.
Sir Thomas; 256–259.
Lady Winifred; 256, 257.
—— her daughters Helen, Elizabeth, Katharine, Francis; 256.
Engleton, Mr.; 263.
English, James; 190.
John; 190.
See England.
Envoys. *See* Accounts Commissioners.
Equity, courts of; 117.
Eresby. *See* Willoughby.
Erett, Thomas; 191.
Ernle, Sir John; 45.
Essex, county of; 42, 45, 46, 92.
George Ford, sheriff of; 40.
Estates. *See* Forfeited Estates.
Estoll, Nicholas; 170.
Eton, Eaton College; 169.
provost and fellows of; 321.
Eure, Lord; 298.
Eustace, Alexander; 192.
Francis; 70.
Thomas; 81.
Evance, Sir Stephen; 137, 163.
Evans, Capt.; 215, 218.
John; 194.
Evbank, Col. Henry; 383.
Evers, Lord. *See* Eure, Lord.
Everson, —; 115.
Evertsen, Rear-Admiral; 211.
Evidence Bill. *See* Quakers.
Ewer, Mr.; 289.
John; 76, 109, 114.
Stephen; 13.
Ewyas Lacy; 327.
Exchange, Bill of; 115.
Exchequer; 77, 167, 175.
Court of; 11, 12, 31, 36–39, 53, 66, 75, 117, 118, 252.
—— Barons of; 12, 76, 117, 118.
—— Chief Baron of; 76.
Lord Chief Baron. *See* Atkyns.
Chamber; 61, 79, 336.
Chancellor of the Court of; 74, 75.
—— *See* Hambden.
Remembrancer of the. *See* Eden.
Secondary in. *See* Blackwell.
deputy chamberlains; 153, 166.
clerks of the; 75.
ushers of the; 151.
Receipt of the, the auditor of the; 77.
seal of the; 74.
See Accounts Commissioners.
Excise, duty of; 77, 78.
See Accounts Commissioners.
Office; 163, 175–177.
Office. *See* Accounts Commissioners.
Exeter; 32.
Exeter, Bishop of; 121, 373.
Earl of; 121, 249, 298.
John, Earl of; 110, 111.
and Devonshire, Earls of, *v.* Clerke, 110–112.
Expiring Laws (Licensing Act, &c.) Continuance Act; 378–381.
Eyles, Franc.; 341.
John; 34, 340.
See Isles.
Eyre, Anthony, Estate Act; 246.
Ann; 246.
Jane; 246.
Samuel; 384.
Thomas; 123, 124, 246, 273.
William; 357.
Eyres, Justice; 90, 103, 310, 343.

F

Fairborne, Capt. Stafford; 219, 228.
Fairfax, Thomas; 151.
Faldoe, Henry; 275.
Falkland, Lord; 87.
Fallet, Michael; 384.
Falmouth; 204, 218, 222, 237.
Fane, Mr.; 312.
Fanshaw, Mrs. Mary; 169.
William; 171, 260.
Fanshawe, Lyonell; 357.
Far. *See* Du Faux.
Farmer, William, Lord Lempster; 82.
Farmers. *See* Alnage.
Farnham Royall; 320.
Farrer. *See* Trevis.
Farrington; 250.
Farrington, James; 50.
Farthing, John; 50.
Farthings. *See* Accounts Commissioners.

Fauconberg, Earl of; 295, 372.
Fawcett, John; 22, 27, 190.
George; 195.
Fearnley, Thomas; 246, 247.
Fees, unlawful; 79.
[of courts]; 78.
Fell, Doctor, Bishop of Oxford; 114.
Felony (sureties for persons pardoned) Bill; 366.
Felton, Francis; 189.
Thomas; 166.
Fens, great level of the; 67.
Ferne, Mr.; 123.
Ferraby, Edward; 38.
Ferrers, Lord; 121, 122, 298.
Fetherston, Thomas; 376.
Feversham, Earl of; 24, 79, 187, 257, 269, 280, 281, 297, 378.
Fidler, William; 355.
Field, John; 76.
Obadiah; 191.
Sarah; 102.
Filbrigg, —; 98.
John; 99.
Richard; 99.
William; 99, 100.
Filmer, Thomas; 28, 101, 102, 109, 257, 303, 304, 317, 322, 324, 325, 330, 356, 368, 374.
Finch, Lord Chancellor; 321.
Hon. Daniel; 302.
George; 320.
Mr. H.; 2, 11, 12, 16, 55, 56, 63, 79, 84, 85, 93, 97, 99, 101–103, 110, 111, 113, 115, 116, 119, 250, 257, 267–269, 274–276, 286, 289, 322, 324, 326, 331, 338, 343, 348.
John; 312–314.
—— deceased; 312.
John, Dilcher *v.*; 312–314.
Fines. *See* Accounts Commissioners.
Fireships, fire master of; 190.
First Fruits. *See* Accounts Commissioners.
Fisher, George; 189.
Fishmonger Hall; 356.
Fist, Anthony; 189.
Fitch *v.* Fitch; 357.
Alice; 357, 358.
Anne; 358.
Dame Anne; 357.
Christian; 358
Sir Comport; 358.
John; 166, 357, 358.
—— his daughter Alice; 357.
Melior; 358.
Thomas; 358.
Sir Thomas; 357, 358.
Fitzgerald, Robert; 91.
Col. Robert; 188, 369, 370–373, 378, 384.
Fitzharding, Lord; 188.
Fitzharris, Anne; 169.
Fitzherbert, Charles; 383.
Fitzmaurice, Thomas; 71.
William, Baron of Kerry and Lixnaw; 71.
Fitzpatrick, Capt.; 229, 235.
Fitzwaters, Charles; 81.
Flampstead, John; 190.
Flanders; 195–197.
cautionary towns in; 186.
train; 191–193, 197.
stores for the; 195, 197.
list of officers and ministers of the train; 191–193.
Flannels; 42, 43.
Fleet, the; 179.
See Ships.
Fleet Prison; 6, 11, 12, 14, 96, 381.
warden of the; 260.
See Bromhall. Manlove. Whichcot.
Fleetwood, William; 321.
Flemming, Sir John; 70.
Fletcher, [Capt.] John; 234.
Colonel; 172.
Thomas; 192.
Flood, Quartermaster; 371, 372.
Foden, Roger; 123.
Foley, Paul; 178.
Phillip; 387.
Robert; 387.
Thomas; 387.
—— junior; 387.
——, of Stoake; 387.
Folkes, Mr.; 117.
Martin; 113.
Folks, Simon; 352.
Foote, John; 293.
Samuell; 341.
Forces, land; 188.
Ford, George; 41.
George, sheriff of Essex; 40.
John; 379–381.
Robert; 166.
Foreland, the Flats off the; 209, 216, 217.
Forest, Marquis de la; 188.
Forest, north of Trent, surveyor of; 166.
Forester, riding; 168.
Forfeited Estates (England) Bill; 65–68.
—— (Ireland) Bill; 68–72.
Forrester, Sir Andrew; 91.
Forster, Mr.; 108.
or Foster, Margaret; 22, 27.
Robert; 85.
Thomas; 21
Fort, Alexander; 167.
Fortifications, Master worker of; 166.
Foscraft, Godwin *v.*; 115.
William; 116.
—— the father; 116.
—— —— his wife Martha; 116.
Foster, Thomas; 26.
—— and wife; 25.
See Forster.
Foubert, Solomon; 169.
Foules, Capt.; 206.
Foulis, Capt. Thomas; 227.
Foulke, Colonel; 369, 370.
Foulkes, Foulks, Capt. Simon; 228.
Fountaine, Francis; 193.
Fowkes, James; 313.
Fowles, Capt.; 236.
Sir Thomas; 362.
Fox, Mr.; 135, 163.
Mr. Thomas, the executors of; 151.
Sir Stephen; 6, 114.

Fradsom; 355.
Frampton, Dr., Bishop of Gloucester; 171.
France; 22, 125, 126, 127, 220, 309.
See also French.
War with; 73, 385.
See Trade.
Francis, Martha; 170.
Franck, Godfrid; 193.
Francklin, Jo.; 278.
Francklyn, George; 189, 190.
Francois, Isaac; 198.
Frank, John; 384.
Frankland, Thomas; 121.
Franklyn, Mr.; 20, 25.
Frauds and Perjuries Act; 353.
Freed; 49.
Freeman, Mr.; 57.
John; 121.
R.; 277.
French, the; 182, 183, 185, 204, 205, 243.
Protestants; 171.
coast; 211, 213, 216, 217, 219.
designs on England; 218.
in Newfoundland; 221.
fleet, ships, or vessels. *See* Privateers. Ships.
French, Sam., Pharmacopola; 80.
Frenchman, a black; 370.
Frescheville, Lord; 111.
Friend, John; 355.
Friezes; 42.
Fritsch, F. Thos.; 62.
Frost, Hendrick; 197.
Frydah, Hans Buttolph or Rodolph; 192.
Fulham Estate. *See* London, bishopric of.
Furnace, Sir Henry; 50.
Furness, co. Lancaster; 67.

G

Gafney, —; 371, 372.
Gage, Mr.; 327.
Gainsborough, Baptist, Earl of, *v.* Catherine, Countess Dowager of Gainsborough; 342–344.
Wrothesly Baptist, late Earl of; 342.
Gainsborough fair; 101.
Gall, Thomas; 355.
Galloway, William; 194.
Galway (Ireland), Lord; 188.
Lord, his regt.; 200.
Gamesham; 331, 332.
Gane, Henry; 82.
Garden. *See* Accounts Commissioners.
Garden Alley; 93.
Gardener, Thomas; 167.
Gardiner, Christopher; 189.
John; 114.
Thomas; 189.
Gardner, Mr.; 314.
John; 314, 315.
Capt. Thomas; 229, 236.
Garrod, Thomas; 42.
Garter Roll; 83, 297.
Garth, Richard; 276, 277.
William; 28.
Gasketts. *See* Casquetts.
Gatehouse, the; 8, 168, 372.
Gates, Daniel; 285.
—— his widow Agnes; 285.
Richard; 248.
Gauden, Mr.; 231.
Gaunt, Jasper; 195.
John; 195.
Gay, Francis; 249.
Geeler, co. Denbigh; 95.
Geensoon, John; 191.
Geeres, Thomas; 308.
Geers, Serjeant Thomas; 310, 311.
Gell, John; 124.
Gerard, Lady Elizabeth, of Bromley; 74.
Charles, Lord; 74.
Germaine, John; 22, 279
Captain; 27.
German Embassy; 62.
Gesford, William; 272.
Gibbins, Mr.; 331.
Gibbon, Edm.; 119.
Edward; 191.
Gibbons, Mr.; 80, 374.
Robert; 194.
Gibbs, Little, of Ven in Sussex; 312.
Jane; 122.
Gibbs, Marmaduke; 309.
Gibside, co. Durham; 373–375.
Gibson, Walter; 172.
Giffard, William, and Ellen his wife; 356.
Gifts. *See* Accounts Commissioners.
Gilbert, John; 195.
Gill, Roger; 115, 116.
—— Eleanor his wife; 115, 116.
Gillam, Capt. Thomas; 221, 228, 234, 243.
Gillesland; 320.
Gillifield. *See* Guillifield.
Ginckell, Godart, Baron de, or Godart, Baron de Rheede, Lord D'Amerongen Ginckell; 61.
Ginkle. *See* Ginckell.
Gisbert, John; 192.
Glamorgan, co.; 311.
Great Sessions of the county of; 307–311.
Glapthorne, co. Northampton; 98.
Glassonby; 320.
Glendall, Thomas; 195.
Gloucester, Bishop of; 171.
—— *See also* Frampton.
Bridge; 246.
county and city; 355.
Gloucester, co., Gloucestershire; 42, 342.
Glover, John; 192.
Thomas; 191.
Gobett, John; 194.
Godfrey, Col.; 120.
Michael; 341.
Godfry, Michael; 50.
Godlington, Joseph; 390.

Godolphin, H.; 321.
Sidney, Lord; 51, 67, 255, 269, 305, 306, 384, 385.
Godschall, John; 341.
Godwin, Edmund; 115, 116.
—— Mary his wife; 115, 116.
Goer, William Wynant; 191.
Goeson. *See* Goosen.
Goff, Sir Henry; 387.
Goldesbrough, Edw.; 104.
Golding, Anne; 168.
Capt.; 219.
Good, Capt. Edward; 229.
Goodin, Ralph; 82.
Gooding, Thomas; 352.
Goodinge, Thomas; 346.
Goodman, —; 172.
Goodrick, Capt Geo.; 194.
Sir Henry; 31, 189, 190, 195.
Goodricke, Lord H.; 87.
Goodwin, Serjeant; 352.
Thomas, Estate Act; 376.
Elizabeth, wife of Thomas; 376.
Goodyeare, A.; 341.
Goosen, or Goeson, Hermans; 192.
Gore, John Wynant; 191.
W.; 341.
Sir William; 369, 372.
Goreman, Francis; 171.
Gosfright, Fra.; 341.
Gosling, Sir William; 288, 289.
Gosnell, Edward; 86.
Gosport; 203.
Gosse, John; 272.
Gothams; 319.
Gother, Capt. James; 228.
Gould, Nathl.; 341.
Gourdon, William; 37.
Gourney, Capt. Edward; 228.
Gouxhill, or Gowsell, co. Lincoln, manor of; 59.
Gover, Joseph; 194.
Goverson. *See* Coverson.
Gowfier, Timoleon, Marquis de Thois; 309.
Gowsell. *See* Gouxhill.
Grace, Oliver, of Dublin; 71.
Gracechurch Street; 44.
Grafton, Duke of; 159, 168, 286, 287.
Duchess of; 159, 168.
Henry, Duke of, Estate Act; 31.
Titus; 355.
Graham, Richard; 46, 47.
Graham's account; 144.
Grandison, George, Viscount; 6, 320.
Grantham; 122.
Grantham, Capt. Caleb; 228.
Granville, Bernard; 91.
Lord; 372.
Gravesend; 200, 287, 315.
Gray, John; 387.
Graydon, Capt. John; 229, 235.
Greenhill, Commissioner; 223.
Henry; 205.
Greening, John; 76.
Greenvill, George; 50.
Greenway, Capt. James; 206, 227, 236.
Greenwich, co. Kent; 190, 191, 336.
Hospital, Charitable Adventure for; 382.
Park; 168.
Gregory, Justice; 83, 89, 90, 103, 262, 264, 310.
Sir William, Baron; 103, 262.
Sir Edward, Commissioner of the Navy; 239.
William; 248.
Gregson, John, of Manningham; 246, 247.
Greive, Thomas; 189, 190.
Gren, Tho.; 355.
Gresham, Richard; 336.
Grevill, Benjamin; 108.
Grey, Lady; 45.
Ford, Lord, Earl of Rochester, *v.*; 45–47.
George, of Nether Stavey; 56.
James; 168.
Ralph; 45–47.
Susanna, widow of George, and wife of John Cole; 54.
—— [her daughter] Christian [wife of Edward Topp]; 54–57.
—— [her daughter] Jane; 54, 55, 57.
—— [her daughter] Margaret; 54, 55.
Grey of Werk, Lord; 121, 298.
Griffin, Lord; 87, 120, 121, 298.
Griffith, Henry; 50, 249.
Mr. Jer.; 49.
Paul; 379.
Griffiths, Griffith, [Capt.] Rd.; 234.
Grimes, Mr., Officer of the Rolls; 269.
Grimsley, Hosea; 22, 27.
Grinstead, East; 313.
Groot, Derrick de; 193.
Grooting, Joyce; 170.
Grove, Mr.; 16.
John; 167.
Groyne, the; 219.
Grubiere, John; 197.
Guards; 188.
Scots; 188.
Dutch; 188.
Guernsey; 182, 183, 190, 196, 212, 213, 216, 304.
Guichett, Peter; 195.
Guildhall. *See* London.
Guilford, Lord Keeper; 1.
Guillfield *alias* Gillifield, co. Montgomery, rectory of; 66.
Guime, Anthony; 310.
Marmaduke; 311.
Guinea; 303.
Gunn, William; 192.
Gunpowder (Tower of London) Bill; 60.
Guy, Mr.; 255.
Henry; 137, 161, 163, 175.
John; 380.
Capt. John; 227.

H

H., D.; 355.
Habeas Corpus Act; 88, 89.
Hack, Richard; 193.
Haddon [or Hatton], Michael; 21, 26.
Haen, Adolph de; 193.
Hailes, Hayles, [Capt.] John; 234.
Hair. *See* Wool.
Hair-shags; 43.
Hales, —; 255.
Edward; 271.
Chief Justice; 124.
Halifax, Marquis of; 10, 11, 13, 49, 64, 183, 198, 247, 255, 284, 294, 351, 364, 373.
Hall, Mr.; 255.
Cornelius; 94.
Isaac; 373.
John; 22, 25, 27.
Mary; 25.
Matthew; 315, 316.
Thomas; 194.
Halloway, James; 59.
Halse, parsonage of; 330.
Hambden, Richard, Chancellor of the Exchequer; 166.
Hamburg; 225.
Hameldon, co. Rutland, Estate Act; 298.
Vicar of; 298.
Hamer, co. Sussex; 312.
Hamilton, Col. Frederick; 371, 372.
Col., regiment; 188.
Lady; 170.
Lord George; 188.
Mrs. Elizabeth; 168.
Rebecca; 172.
Hamond, —; 29.
John; 81.
William; 341.
Hammond, Thomas; 387.
Hampden, Mr., junior; 50, 51.
John; 89, 108.
Hampden, Lord R.; 87.
Hanaper. *See* Accounts Commissioners.
Hancock, Capt. Robert; 229, 236.
William; 313.
Handkerson, John; 195.
Hankinson, Charles; 193.
Hanleck, Clajus; 197.
Hanmor, Sir John; 188.
—— his regiment; 188.
Hants, co. Hampshire; 42.
Harang, Harrangue, Daniel; 194.
Harbinger; 166.
Harbord, Mr.; 351.
Sir Charles; 63.
—— his granddaughter; 63.
Phillip; 63.
Harborough; 121.
Harcourt, Mr.; 271.
Simon; 82, 167, 323, 357.
Harding; 340.
Anne; 95, 96.
Hardwick, Lawrence; 194.
Hare, William; 81.
Harford, Walter; 190.
Hargrave, Richard; 381.
Harleston, manor of; 83.
Harley, Ro.; 178.
Harlow, Capt. Thos.; 227, 235.
Harman, —; 25.
Edward; 190.
Capt. William; 227.
Harnage, Richard; 81.
Harper, Ralph; 261.
Harrangue. *See* Harang.
Harriers, Master of the; 166.
Harrington, Ja.; 85.
John; 284, 285.
Mr.; 389.
Harris, Harry; 167.
Jonathan; 320.
Mr.; 389.
Richard; 367.
Harrison, —; 25.
William; 373.
Hartopp, Thomas; 341.
Hartupp, Sir William; 190.
Harvey, Sir Eliab; 302.
Sir Elias; 50.
George; 353.
John; 50.
Harwich; 108, 223.
Hase. *See* Hayes.
Haslewood, Sir Thomas; 387.
Hastings, Capt. Arthur; 229, 236.
Col. Anthony; 273, 274.
Caroletta, widow of Col. Anthony; 273, 274.
Ralph; 284.
v. Lady Churchill; 273.
Hastler, Thomas; 191.
Hatter, John; 81.
Hatton, Mr.; 357.
Viscount; 298.
See Haddon.
Haughton, Capt. Henry; 227.
Havre, Havre-de-Grace; 212, 216–218, 242.
Haward, Sir William; 323–325.
Hawes, Jo.; 2.
Nathaniel; 76, 356.
William; 38.
Hawkers and Pedlars Prohibition Bill; 358–362.
Hawkins, —; 29.
Capt. Ben.; 229.
Capt. Charles; 229.
Hawks, Masters of the; 166.
Hawley, Henry; 125.
Mary; 125.
Henry; 125.
Estate Act; 125.
Hawtrey, John; 321.
Haydon, Thomas; 194.
Hayes, Mr.; 109.
or Hase, G.; 36, 41.
John; 34, 340.
—— his wife Mehitobell and her daughter Elizabeth; 251.
Richard; 272, 273.
treasurer; 108.

Hayin, co. Devon. *See* Northcote.
Hayles. *See* Hailes.
Haynes, Mr.; 371, 372.
Hazard, Roger; 76, 353.
Head, John; 61.
Vincent; 272, 273.
William; 313.
Heanes, Elizabeth; 384.
Thomas; 384.
Hearth money. *See* Accounts Commissioners.
Heath, Joyce; 21, 26.
Capt. Thomas; 206, 228, 236.
Hedges, Sir Charles; 18–20, 25, 385.
William; 341.
Heigham, Bedingfd.; 341.
Hellbrooke Common; 349.
Hellyer. *See* Jones.
Hemings, Edward; 324.
Hemming, Robert; 22, 27.
Hendrick, Wilk; 194.
Hengton; 333.
Henley, Robert; 201.
Henly; 268.
Henry VIII.; 123, 124.
Hensman, Francis; 195.
Heralds; 167.
Herbert, Lady Charlotte; 308.
Henry; 387.
Hereford, co.; 327.
Hereford, Bishop of; 171.
Earl of; 298.
Heriott, Mr.; 50.
Herman, Alexander; 22, 27.
Herne, Daniel; 108.
Heron, Thomas; 373.
Hertfordshire; 21.
Hext, Amias and Juliana; 149.
Hicks, —; 99.
John; 252, 253.
Hall, justices at; 294.
Hide, Thomas; 153.
Hideman. *See* Hydman.
Higgons, John; 266.
Highworth; 121.
Hildeyard, Phillip, Estate Act; 59.
Hill, Captain; 294.
Mr.; 28, 381.
John; 193.
Hinde, Abraham, Estate Act; 307.
Hingewell, lands called; 368.
Hitchcock. *See* Sedgwick.
Hochan, Mr. Walter; 384.
Hockley, John; 336.
Hodder, James; 191.
Hoden, Richard; 189.
Hodge, John; 61.
Hodgkins, Samuel; 115.
Holborn, Castle Yard; 14.
St. Andrews; 81.
Holden Fair; 101.
Holder, Richard; 341.
Holderness, Earl of; 111, 298.
Lady; 110.
Holding, George; 170.
Holford, Richard; 44, 111, 114, 285, 327, 356.
Holker, co. Lancaster; 67.
Holland; 200, 223, 225, 368.
transports for; 215, 223.
Holland, John, and Martha his wife; 282.
Holles, Mr.; 61, 262, 378.
Hollier, John, Mayor of Shrewsbury; 86.
Hollybone, John; 192.
Holman, Thomas; 194.
Holme, the; 98, 99.
Holmes, Mr.; 234.
Holt, Chief Justice; 60, 61, 80–82, 87–90, 103, 104, 266, 270, 278, 279, 294, 309, 310, 343, 353.
Holt, —; 29.
J.; 91.
Honey Lane, the "Cheese"; 355.
Hooghly; 325.
Hooke, Henry; 189, 190.
Hoopan, Michael; 193.
Hooper, John; 189.
Nicholas; 32, 123.
Hope, the; 200, 238.
Hopegood, J.; 341.
Hopeke. *See* Hopke.
Hopke, or Hopeke, John Henry; 190, 193.
Hopson, Capt. Tho.; 227.
Hore, John; 122, 123.
Matthew; 122.
Horn, Robert; 381.
Hornby, town of; 7.
Horne, Charles; 116.
Elizabeth; 116.
Richard; 355.
Thomas; 321.
Horse, Master of the; 139, 153, 163, 168, 175.
Horsley, East, co. Surrey, manor of; 59.
Long; 320.
Horton, Richard; 357.
Thomas; 328.
—— his daughter Maud; 328.
Thomas (the nephew); 328.
Hoskins, John; 22, 25, 27, 50.
Hoskyns, Sir John; 44.
Hospell *v.* Collins; 269.
Host, Derick; 277.
Houblon, or Hubland, Abraham; 50.
James; 50.
Sir John; 50.
Pr.; 341.
House, Clerk of the; 7.
Household, apothecary of the; 166.
How, John; 166.
Howard, Colonel; 172.
Chra.; 144.
Edward; 170.
George, otherwise Lord George; 67.
Philip; 168.
Hon. Col. Philip; 383.
Sir Robert; 162, 164–166, 174–176, 256.
Thomas; 189.
Lord; 20.
—— of Effingham; 23, 279, 298.
Francis, Lord, of Effingham; 63.
Lord, of Escrick; 298.
Susan, Lady; 63.
Henry, Esq., later Earl of Suffolk, 6.
Hubanck, Colonel; 169.

Hubbald, Edward; 189.
William; 190, 191.
Hubbard, Capt. John; 227.
Hubland. *See* Houblon.
Hudson, Thomas; 21–23, 26.
Hugh, Eaun; 15.
Hughes, Capt.; 204, 222.
Charles; 95, 96.
Humphrey; 95.
John; 84.
Meyrick *v.*; 95.
Reyland; 309, 310.
Screven; 15.
Thomas; 320.
Hull, William; 379.
Stydolfe *v.*; 321–323.
the wife of; 321–323.
Hull; 189, 191, 196, 355.
Humfrey, John; 83.
Toby; 333, 334.
—— his daughter; 333.
Humphreys, John; 193.
Hungerford, Sir Edward; 327.
—— his daughter Rachell; 327.
John; 324.
Hunt, Mr.; 29.
Elizabeth; 61.
John, [M.P.]; 56.
Roffey *v.*; 61.
Samuel; 387.
Thomas; 341.
Huntbach, John; 123.
Huntingdon; 121.
Earl of; 249.
—— privilege; 384.
Theophilus, Earl of; 86–91.
Huntley, Mary; 256.
Hurlingham, Great; 349.
Hurst, Samuel; 379.
Hurstmonceux; 319.
Hurt, Nicholas; 123, 273.
—— his wife Elizabeth; 123, 273.
v. Attorney-General of the Duchy of Lancaster; 123–125.
Husbands, Sir Samuel, *v.* Bigg; 316, 317.
Hust, Sam.; 195.
Hutchin, Michael; 59.
Hutchins, Lord Commissioner; 263.
Sampson; 293.
Samuel; 293.
Hutchinson, Charles; 31.
Hutton, Dorothy wife of Thomas; 292, 293.
Hyde. *See* Pettit.
Hydman, Hideman, Andrew; 194.
Hyrne, John; 81.

I

Idle, William; 189.
Iford, co. Wilts; 328.
Illegitimation Act; 18.
Impressment; 198.
general; 224, 225.
Imprest money. *See* Accounts Commissioners.
Ince; 355.
Indemnity Act; 125–127.
India Company, East. *See* Accounts Commissioners. Admiralty. East India.
Indies. *See* East Indies. West Indies.
Inett, John; 298.
Informations *See* King's Bench.
Ingoldsby, Col.; 371.
Ingrams; 319.
Inner Temple, London; 81, 260, 266, 271, 320.
Master of the. *See* Sherlock.
Interest of Money (Reduction) Bill; 47.
Ipswich; 108, 109, 355.
Ireland, William; 167.
Ireland, Irish, &c.; 57, 65, 68, 73, 83, 172, 188, 198, 199, 201, 222, 225, 245, 251, 374, 387.
for Hamburg; 225.
army; 135, 175.
Privy Council in, office of Clerk of the; 71.
Commissioners; 68.
Danes from; 199.
officers; 220.
Lord Chancellor of; 251.
Court of Chancery, office of Usher of the; 71.
Protestants; 69, 171.
troops from; 237.
estates in. *See also* Forfeited estates.
legal interest in; 251.
Oath of Supremacy; 71.
ships; 201.
late war in; 68.
coast; 218.
seas; 219, 225.
Channel; 219.
state of; 369–373.
free quartering of the army; 370.
disposal of forfeited lands and goods; 370.
exactions of fees by officers; 370.
protections granted; 370, 372.
Protestants murmur at protections; 370.
Lord Chancellor of; 370.
Castle Yard; 370.
Lord Lieutenant; 370.
Privy Council; 370.
Lord Mayor of Dublin. *See* Dublin.
hanging soldiers; 371.
Article of Limerick; 371, 372.
forfeited estates; 371, 372.
free quarters; 371, 372.
methods of Exchequer; 372.
death of soldiers; 372.
embezzlement of stores; 372.
Ireton, Mr.; 45.
Irish. *See also* Ireland.
Channel; 219.
Ironmonger, Katherine; 170.
Isles, or Eyles, Sir John; 37, 38.
Ives, Jer.; 253.
Ivy, Mr.; 371, 372.

J

Jackson, John ; 76, 291, 353.
Jacob, Alexander ; 341.
Sir John ; 346.
Jacobite plot (Earls of Huntingdon, Marlborough and Scarsdale) ; 86–91.
Jacobs, Paul ; 195.
Jacson, Roger ; 288–290.
Jager, Harman de ; 198.
Jamaica ; 92, 240, 274.
chaplains at ; 171.
James II. ; 8, 45, 46, 72, 74, 89, 119, 125, 216, 219, 220, 255, 286, 305.
James, William ; 191, 195.
James Street, Westminster ; 122.
Javenes, Charles ; 195.
Jecock, Moses ; 193.
Jefferys, Sir Robert ; 82.
Jeffes, John ; 112.
—— and Mary his wife ; 111.
Jeffreys, Lord Chancellor ; 2, 13, 29, 56, 97, 98, 116, 256, 267, 277, 321, 365, 376.
Chief Justice ; 89.
George, Lord, Baron of Wem, Lord Chancellor ; 308.
John, Lord ; 308, 309, 311.
—— Lady Charlotte his wife ; 311.
Jeffrey ; 272.
Alderman John, of London ; 29.
Jeffryes, Henry ; 387.
Jenings, Walter ; 123.
Jenkins, John ; 57.
Jennings, Mr. ; 30, 55, 56, 99, 325.
E. ; 115, 116.
[Capt.] John ; 234.
Jonathan ; 191, 194
Richard ; 170.
Capt. Thomas ; 229.
William ; 246.
Jersey ; 182, 190, 196, 216, 304.
Jethou ; 182.
Jewels. *See* Accounts Commissioners.
Jodrell, Paul, Clerk of the House of Commons ; 244, 245.
Johnson, — ; 263.
Capt. ; 223.
Greatrick ; 197.
Henry ; 260, 267.
Lancelot ; 358.
Marmaduke ; 246.
Martha ; 267.
Mathew ; 99, 111.
Matthew, Clerk of the Parliament ; 63, 82, 244, 297.
Jolliffe, Thomas ; 387.
Jon Geneall, or Jongeneell, Jacob ; 193.
Jones, — ; 343.
Anne ; 25.
C. ; 285.
Cadwallader ; 250.
—— his father Cadwallader, and Anne his wife ; 250
Jones—*cont.*
Dorothy, wife of George Hellyer ; 250.
Edward. *See* St. Asaph.
Elizabeth, *v.* Hellyer, George ; 250.
Henry ; 367.
John ; 22, 27, 166.
Dr. John, *v.* Beaw ; 15–17.
Mary ; 21, 26.
Rice ; 25.
Roger ; 341.
Thomas ; 111, 347.
Sir Thomas, his daughter Penelope ; 346.
Jopson, George ; 7, 8.
Jordan, Francis ; 189.
Joy, George ; 2.
Joyce, Richard ; 76.
Joyes, Richard ; 353.
Joyner, Thomas ; 95.
Judges of England ; 166.
Commissions and Salaries Bill ; 76–79.
Judgment, corrupt ; 79.
Judgments Discovery (Docket) Act ; 352.
Jumper, Capt. William ; 206, 229, 236.
Justice, Chief. *See* Lovelace.
in Eyre, north of Trent, Chief. *See* Devonshire.

K

Keck, Capt. Law ; 229.
Master ; 56, 111.
S. ; 266, 298.
Lord Commissioner ; 322.
Kecke, Samuel ; 26.
Keene, John ; 250.
Keeper, the Lord ; 118, 290.
Lord. *See* Guildford, North.
Keesey, Robert ; 193.
Keigwin, James ; 293.
John, Humphrey *v.* ; 292, 293.
Margaret, relict of John ; 293.
William ; 292.
—— his son John, 292.
Kein, Ralph ; 166.
Kellett, William ; 7.
Kelley, Anne ; 171.
Kelmes, William ; 320.
Kelton, — ; 85.
Kelynge, Charles ; 315.
Kemp, — ; 170.
William ; 190.
Kempton, William ; 336.
Kendal ; 7.
co. Westmoreland. *See* Wilson.
Kendall. *See* Neilder.
Kennesley, John ; 355.
Kensington ; 81, 122.
Palace ; 166.
Kent, Walter ; 341.
Kent, co. ; 42, 319, 320.
sheriff of, 248.
lands in ; 6.

Kentish Knock; 204, 209, 242.
Kercher, Capt.; 237, 238.
Kerne, Mr.; 370.
Kerr, Capt. William; 227, 236.
Kerry and Lixnaw, Baron of. *See* Fitzmaurice.
Kersies; 42, 43.
Kessings. *See* Westons.
Kettlebys, Capt., his grandchildren; 169.
Keveton, Lord; 249.
Keymer. *See* Reyner.
Keysea, Aran; 192.
Kidderminster stuffs; 42, 43.
Kidnapper, Wilmer a; 187.
Kiffin, Henry; 341.
William; 341.
Kildare, Charles; 194.
Killegrew, Charles, Master of the Revels; 167.
Killigrew, Charlotte; 169.
Capt. James; 239.
William; 94.
Sir William; 169.
Killingworld, William; 317.
Killingworth, Capt. Thomas; 206, 229.
William; 102.
Killner, Thomas; 325, 326.
King, Alice; 171.
King's Bench, the; 14, 15, 46, 76, 79, 88, 89, 91, 92, 95, 104, 117, 118, 298, 307, 336.
Chief Justice of the; 349.
judges of the; 87, 89.
Marshal of the; 366.
petition of Custos Brevium and clerks; 352.
Secondary of the Crown Office; 357.
Court (Malicious Informations) Bill; 48, 351.
Court, Reversal of Outlawries; 48.
Crown Office Act; 386.
Fines. *See* Accounts Commissioners.
prison; 284, 293, 357, 362.
Printing Office; 381.
servants. *See* Privileges.
speech; 83, 390.
Kingdom, accounts of the; 50.
Kingroad; 199.
Kings Lynn; 303.
Kingsmill, Col. Emanuel; 171.
Kingsnoth Manor; 272.
Kingston, Earl of; 296.
Kingston, co. Somerset; 329.
Kinsale; 198, 216, 219.
Kirby Overblowes; 320.
Kirk, Mary; 171.
Kirke, John; 195.
Kirkeoswald; 320.
Kirkham, Charles; 98–100.
—— his father Walter; 100.
Knapp, John; 28.
Capt. John; 229.
See Napp.
Knatchbull, Thomas; 302.
Knifton, Mr.; 23.
Knight, Francis; 21, 22, 26, 27.
Henry; 193.
Knolles, Nicholas; 111.
Knolton, hundred of; 284.
Knowles, Charles. *See* Banbury.
Koen, Adrian; 192.
Kyffin, Richard; 95.
—— and Jane his wife; 95.
Kynaston, J.; 86.

L

La Hogue, 181, 182, 205, 209, 211, 212, 214, 216–218, 220, 235, 236.
Lake, Hugh; 194.
La Machine, a French privateer; 218, 219.
Lamb, Henry; 357, 358.
Lambert, Capt. David; 219, 229, 238–240.
Edward; 195.
Patrick; 219.
Lambly, John; 355.
Lamerson, Capt. Henry; 193.
La Molin. *See* Le Molin.
Lancaster, county of; 7, 42.
Attorney-General of the Duchy of; 273.
Attorney of. *See* Hurt. Northey.
the Chancellor of. *See* Chiceley.
Lancelas, Stephen; 194.
Land Tax; 305–307.
Land's End in Cornwall; 218, 293.
Langford, Frances; 171.
Langhorne, Luke; 321–323.
—— his wife Susanna; 321–323.
Langley, Henry; 193.
Langston, Col.; 200.
Larchin, John; 81.
Larmey, Timothy; 341.
Lassenby *alias* Lazenby; 320.
Lath, Henry; 193.
Latin, protestations in; 20.
Laton, Robert; 347.
Law suits. *See* Accounts Commissioners.
Lawson, Anne; 168.
Phillip; 267.
Laycock, Walter; 166.
William; 357.
Lazenby. *See* Lassenby.
Lea, William; 76.
Leach, Mr.; 80.
Charles; 79.
Sir Simon; 79, 80.
v. Thompson; 79.
Leacroft, co. Stafford; 123.
Leader, Capt. James; 237.
Capt. John; 229.
Leake, Capt.; 237.
Capt. John; 189, 228.
Richard; 167.
Capt. Richard; 189.
Sir Robert; 120.
Lechmere, Baron; 12, 65, 79, 80, 90, 110, 111, 255.
Lee, Henry; 59.
Joseph; 170.
Wilmott, daughter of William; 31.

Leece, James; 189.
Leech, Mary; 171.
Leeward Islands; 188.
—— chaplains to the; 171.
Legard, Charles, curate; 61.
Robert, Master in Chancery; 123, 293.
Legg, Col. Wm.; 194.
Leghorn; 286, 287.
Legoe, Thomas; 195.
Leicester, Earl of; 298.
Leicestershire, co. Leicester; 42, 256, 257.
Leigh, Colonel; 330.
Mr.; 328.
Francis; 321–323.
Lord; 295.
Leighton, Col. Baldwin; 262–267.
Susanna; 169.
William; 357.
Leinster, Duke of; 187, 201, 220, 239.
Leith; 200, 217.
Lely, Christian; 194, 198.
Leman, Jam.; 115.
Le Marchant, William; 190.
Le Molin, la Molin, Paul Robert; 194.
Lempster, Lord; 82, 121.
Lench, Thomas; 387.
Le Neve, Peter; 166.
Lennard, Sampson, Blue-mantle; 268.
Lenox. *See* Richmond.
Lenthal, Dame Elizabeth; 170.
Lenton fair; 101.
Lesley, George; 191.
Lesly, Katharine; 171.
Leson, Daniel; 356.
L'Estang, or L'Estrange, Mons. de; 188.
Lestock, Capt. Robert; 229.
L'Estrange. *See* L'Estang.
Letchmere, Edmund; 387.
Letherhead, John; 171.
Lethieulier, Christopher; 290.
Letter money. *See* Accounts Commissioners.
Leveson, Col. Richard; 188.
Levett, Sir Richard, sheriff; 82.
Levingston, Sir Thomas; 188.
Levinz, Sir Cresswell; 18, 279, 309.
Lewis, David; 194.
John; 49.
v. Withe; 258.
Lewkner's Illegitimation Act; 18.
Lexington, Lord; 64, 87, 249.
Licensing Act. *See* Expiring Laws.
Lichfield, Earl of; 122, 298.
Dean of; 86.
Bishop of. *See* Coventry.
Vicar of; 169.
Lightfoot, William; 194.
Lighthouses. *See* Accounts Commissioners.
Lillingston, Roger; 37, 40.
Limerick; 371.
article concerning; 370.
Limpeny, Robert; 349.
Lincoln city; 271.
Lincoln, Bishop of; 288.
—— *See* Tenison.
Dean and chapter; 298.
Lincoln, Lincolnshire; 15, 267, 319, 333.
Earl of; 24, 87, 88, 248, 249, 298.
Edward, Earl of (assault on Webb); 80–82.
—— alleged murder by; 80.
Francis, Earl of; 319.
Lincoln's Inn; 260, 335.
Lindsell, Humphrey; 355.
Lindsey, Earl of; 87, 168.
Lisle, Mary; 260, 262.
Lister, Christopher; 191.
Litchfield, vicar of; 169.
Litcott *v.* Atkyns. *See* Atkyns.
Littleington, co. Bedford; 318.
Littleton, Edward; 190.
Capt. Edward; 206, 227, 236.
Sir Henry; 387.
Sir Tho., clerk of the Ordnance; 168, 189, 191, 193, 195, 196, 198.
Lixnaw, Baron of. *See* Fitz Maurice.
Lizard, the; 218, 224.
Llachdunny, co. Carmarthen; 49.
Llandaff, Bishop of; 15.
Francis Davies, Bishop of; 15, 16.
William Beaw, Bishop of; 15, 16.
William Lloyd, Bishop of; 15, 16.
Chancellor of. *See* Lloyd. Stafford.
Llangibby Castle, co. Monmouth; 327.
Lloyd, Henry; 96.
James; 191.
Lewis; 272.
Sir Richard, Chancellor of Llandaff; 15, 16.
Thomas; 22, 25, 27, 161, 167.
William. *See* Llandaff. Norwich.
Lobbeck, Hermens or Hermanns; 192.
Lockley, Samuel; 384.
Lodge, Daniel; 115.
Lodington, Nathaniel, consul at Tripoli; 151.
Loftus; 375.
Logan, John; 194.
Lomax *v.* Lomax; 337–339.
Anne; 337, 338.
Elizabeth; 337.
Joshua, the father; 337.
—— the son; 337.
Mary; 337, 338.
Thomas; 337–339.
London; 7, 11, 16, 29, 40, 42, 43, 62, 76, 81, 94, 100, 103, 106, 108, 109, 115, 121, 148, 214, 221, 222, 224, 251, 260, 271, 277, 285, 286, 303, 304, 313, 325, 342, 345, 355, 358, 362, 368, 375, 382, 386.
Bishop of; 4, 287, 349, 379.
[Fulham Estate] Act, bishopric of; 349.
bishopric of, Bushley Manor Act; 6.
cheesemongers of; 353–356.
lieutenancy of; 187.
poor of; 172.
poor debtors in; 8.
sheriffs of; 362.
Custom House; 385.
Guildhall in; 8, 9.
Temple. *See* Inner Temple. Middle Temple.

London—*cont.*
St. Andrew's, Holborn; 316.
Tower of. *See* Tower.
Water house and waterwork at Broken Wharf; 323.
and Middlesex [alnage of]; 42.
Longreach; 206.
Longstaff, George; 190.
Longueville, Lord; 259, 284.
Loop, Elizabeth; 170.
Loover, or Lover, Hendrick; 192.
Lord, Henry; 372.
Lords, House of; 156.
absent (call of the House); 120–122.
Lotteries. *See* Accounts Commissioners.
Prohibition Bill; 381–383.
Lottery, Royal Oak; 382, 383.
Loughborow, co. Leicester; 384.
Loup, William; 171.
Lovelace, Lord; 249, 295.
—— Chief Justice in Eyre, south of the Trent; 166.
Lover. *See* Loover.
Low, Anthony; 123.
Charles; 64.
Edward; 123, 124, 260, 273.
—— his five sons; 124.
Sir Edward; 260.
Elizabeth; 262, 273.
John; 123, 124, 166, 273.
—— (the son); 123.
Susan; 262.
Low Countries; 179, 183, 198.
Lowe, Thomas; 340, 387.
Lower, Phillip; 293.
Lownes, Thomas, and Elizabeth his wife; 276, 277.
Lowthonock Hinton; 333.
Loyalty, address of; 234.
Lucas, John; 41.
Lucas, Lord; 22, 87, 166, 246.
See Tower of London.
Lucy, James, or Jacob; 119, 120.
Jacob; 277.
Ludgate prison; 61.
Lumley, Col.; 188.
Lord. *See* Scarborough.
Lupeere, Mrs. Dorothy; 26.
Lupton, David; 190.
Lutheran church; 62.
Luttrell; 18, 19, 24, 51, 81, 89, 187, 196, 205, 213, 215, 222, 223.
Lyde, Nehemiah; 341.
Lyme, corporation of; 153.
a master of; 220.
Lynge, Thomas; 315.
Lynn in Norfolk; 303.
Lyon, Thomas; 291.
Lyster, Barbara; 111.
Lytcott, —; 254, 255.

M

MacCarty, Lady; 171.
Macclesfeld, Earl of; 87, 248.
Macclesfield, Mary; 290, 291.
—— her son, Peter; 291.
Peter; 290, 291.
Ralph; 290, 291.
Thomas; 290, 291.
Ralph, Estate Act; 123.
—— his wife, Dorothy; 123.
MacCustion, Jacobus; 192.
Macklesfield. *See* Macclesfield.
Madge, Elizabeth; 170.
Madox, Philip; 171.
Magill, Sir John; 369, 372.
Maine, Capt. John; 229, 239.
Mainston, John, *v.* Mainstone, Penelope; 346, 347.
William; 346.
Malaga; 286.
wax; 287.
Malbon, John; 190.
Malmesbury; 121.
Man, Isle of; 169.
Man-of-war, private, 385.
Manchester, Charles, Earl of; 186, 247, 248, 269, 272.
Manley, Capt. Fra.; 228.
John, J.P.; 293.
Manlove, Richard, Warden of the Fleet; 260–265.
Manningham, co. York; 246.
Mannock, Sir William, Estate Act; 272.
Mansel, Francis; 169.
Marabough; 122.
March, Richard; 341.
Mare, manor of; 290, 291.
Margate; 190.
Mark Lane; 40.
Marlborough, Earl of; 181, 183, 186, 378.
John, Earl of; 86–91.
Marley, John; 190.
Marriott, Richard; 189.
Marseilles; 287.
Marshal of England. *See* Norfolk, Duke of.
Marshall, Richard; 195.
Marshalsea, the; 61.
Marsham, Sir John; 248.
Marshman, John; 272.
Marston *v.* Marston; 317–319.
Joseph, the son; 317, 318.
—— the father; 317.
William; 317.
Marston Moretaine; 317, 318.
Martin, Capt. Hen.; 228.
Thomas; 195.
Martinery, Alexr.; 194.
Martyr, Thomas; 59.
Mary, Queen; 65, 67, 127, 305.
Queen. *See also* William.
Maryland; 224.
Mashiter, Cuthbert; 191.

Mason, Capt. Christopher; 228.
Edward; 373.
Mathew, Col.; 188.
Mathewes, Austin; 91.
Maton, Samuel; 193.
Matress, Simon; 193.
Matthews, —; 172.
Maucleir, or Meauclere, John; 192.
Mawgridge, Robert; 167.
Maynard, David; 312.
Lord; 298.
Meade, Robert; 319.
Meadows, Sir Philip; 50, 51.
William, and Katherine his wife; 303.
Meads, Mr.; 236.
Meare, co. Stafford; 123.
Mease, Meese, Captain George; 210, 215, 216, 222, 229, 239, 240, 244
Meath, Bishop of; 369, 370.
Earl of, his regiment; 188.
Elizabeth, Countess of; 83.
William, late Earl of; 83, 84.
—— his daughters; 83.
Meauclere. *See* Maucleir.
Medmenham, co. Bucks; 102.
Medway; 206, 209, 215, 225.
Meeres, or Meyr, Hendrick; 193.
Meese. *See* Mease.
Meesters, William; 181, 189, 191.
Melfort, —; 219.
Meloniere, Col. la; 188.
—— his regiment; 188.
Men-of-war, private; 385.
Menting, Eliazer; 194, 198.
Mercer, Daniel, Edward Browne, *v.*; 28.
Mere, Eliz.; 121.
Meres, Sir Thomas; 50.
Merioneth, lands, &c. in; 15.
Mertendale; 320.
Merton Abbey House; 348.
mills; 348.
fishing in mill stream; 348.
Metcalf, Mitchell *v.*; 57.
Metcalfe, William; 58.
Methelthin, Dethrick; 192.
Meuse, Rear-Admiral; 211.
Meyr. *See* Meeres.
Meyrick, Edmund; 95.
—— and Elizabeth his wife; 95.
v. Hughes; 95.
Michel. *See* Michell.
Michelbourne, Col., his regiment; 188.
Michell, Daniel; 57.
John; 57.
Middlesex, county of; 8, 32, 42, 43, 253, 260, 313, 342, 345, 386.
clerk of gaol deliveries for; 82.
commissioners of oyer and terminer for; 297.
justices, &c. for; 81.
sheriff of; 293.
Middle Temple; 375.
Middleton, Lord; 91.
Midhurst; 121.
Milborne, J.; 343.
John; 44.
Lucy; 44, 45.
Miles, —; 25.
Milford; 198, 199, 201, 225, 238.
Milkey; 123, 124, 273.
Miller, Edward; 111.
Muller, Joachim; 194.
Mill Land; 123.
Mills, John; 37, 82.
Milton, Mr. Humphrey; 128.
Milverton; 250.
Minehead; 238.
Mines Bill, Royal; 337.
Minikin Bay; 335.
Minshall, Mr.; 127.
Minshull *v.* Carter; 367.
Anne; 367.
Francis; 384.
Richard; 367, 368.
Sir Richard; 367, 368.
Warre, *v.*; 336.
Mint, the; 115, 337.
gravers of the; 167.
See Accounts Commissioners.
Mitchel, Mary; 170.
Mitchell, Capt. David; 210, 211, 228, 230.
v. Metcalf; 57.
Mitford, John; 50, 51.
Sir John; 50, 51.
Mogul, the; 325.
Mohun, Charles, late Lord; 366.
—— now Lord; 366.
Charles, Lord, murder of Mountford; 294–298.
Elizabeth; 366.
Katherine, Lady; 366.
Lady Phillippa; 256.
Dowager Lady Philippa, privilege 366.
Mohun's case, Lord; 305.
Molledge, John; 195.
Molyneux, Reginald; 61.
William; 61.
—— Estate Act; 61, 249.
Money. *See* Interest.
Monk, Christopher; 92, 93.
See also Albemarle.
Monmouth, Charles, Earl of; 18, 67, 79, 279, 296, 349.
Monmouthshire; 311.
woods in; 44.
Monpouillon. *See* Monpovillan.
Monpovillan, Marquess of, Armand Nompar de Caumont; 61.
Montague, Earl; 249.
Lord Chief Baron; 98.
Monteagle. *See* Morley.
Montgomery. *See* Pembroke.
Moody, Thomas; 320.
Lady Alice; 171.
Moore, Mr.; 36.
Edward; 379.
John; 76, 353.
Sir John; 82.
Thomas, junior; 374, 375.
—— the father; 375.
Zacharias; 375.
William; 195.
William, and Elizabeth, Countess of Meath, his wife; 83.
v. Coote; 83.

Moors, the; 325, 326.
Mordant, Sir John, of St. Andrew's, Holborn; 81.
Mordant, Mordaunt, Lady Mary; *See* Norfolk.
Morea; 285.
Moree, Anthony; 22, 27.
Moreland, Sir Samuel; 168.
Morgan, George; 277.
John; 341.
Sir John; 172.
Morland, or Morley, William; 7.
Morley, Lord; 295.
Lord, privilege; 6–8.
and Monteagle, Lord; 172.
Sir William; 336.
See Morland.
Morly, Thomas; 373.
Morrison, Mary; 171.
Mortgages (Clandestine) Bill; 64, 84.
Morton, Sir John; 184.
Mose, Francis; 320.
—— junior; 320.
Mosedale; 320.
Mott, Elizabeth le; 275.
Mottram, John; 42.
Moulten, John; 122.
Mouncke, Henry, deputy aulnager; 43.
Mountague, Earl of; 87, 91–93.
Mountford, William, murder of. *See* Mohun, Lord Charles.
Mountjoy, Lord, his children; 169.
Mounts Bay; 224.
Mowbray, Thomas; 28.
Mulgrave, Earl; 185–187, 306.
Muller. *See* Miller.
Munden, Capt. John; 227, 239.
Munne, Thomas; 50.
Murder by a peer. *See* Mohun, Lord.
Muschamp, Henry; 96, 97.
v. Burton; 96.
Muscry, Charles, Viscount, 72.
Musgrave, Christopher; 167, 189, 196.
William; 191.
Musters, false; 62.
Mutineers; 62.
Mutiny, &c. Bill; 62.
Myngs, Capt. Christopher; 227.
Mynors, Capt. Robert; 189.

N

Nabbs, William, Master in Chancery; 123.
Nanter, George; 314, 315.
Napier, Charles; 381.
Napp or Knapp, Capt.; 206, 236.
Nassau, Comte; 188.
Nation, state of; 179–245.
address of advice; 179, 187–198.
Naturalisation Act (Marquess of Monpovillan and others); 61.
Navigation Act Suspension (West Indies) Bill; 72–74.
Navy, Naval, &c.; 135, 163, 175, 176.
Board; 233.
officers of the; 64.
office for victualling; 60.
victuallers of the; 159, 163, 200.
miscarriages; 179, 198-245.
transport ships; 198.
main fleet, composition and condition; 202–209.
—— movements; 202, 209–214.
particular service; 202, 215.
—— separate service; 215–217,
—— detached service; 215, 217–222.
—— convoys; 215, 222–224.
manning the fleet; 202, 224–232.
victualling; 202, 232.
payment of seamen; 202, 233.
address of loyalty; 202, 234.
offences, courts martial; 202, 234.
appointments and promotions; 202, 236.
transports, &c., for descent; 202, 237.
miscellaneous; 202, 239.
hospital ships; 203.
Commissioners of the; 205.
deserters; 232.
Naylor, Zouch *v.*; 13.
Neale, Thomas; 33, 139, 163.
Nedham, Eleanor; 168.
Nicholas; 169.
Richard; 169.
Needham, Robert; 193.
Neene. *See* Nene.
Negroes, trade for; 314.
Neilder *v.* Kendall; 258, 259.
Neitherhaven; 272.
Nene River Navigation Bill; 282–284.
Ness, the; 210.
Nevell, Capt. John; 229.
Nevill, Sir Edward, Baron; 82, 262, 266.
Justice; 90, 262, 264, 310.
Capt.; 213, 215, 219, 220.
George, his son George Nevill 273.
Mary; 170.
Richard; 124, 273.
—— his son George; 124, 125.
[and his grandson] George; 124.
Sophia; 170.
New, Abraham; 362.
New Biggin in Gillesland; 320.
Newby, Francis; 190.
Newcomen, Dame Sarah; 171.
Newcourt, Gerrard; 250.
New England; 205.
New Forest; 168.
sale of decayed trees; 64.
Newfoundland; 221, 243.
fisheries; 222.
the French in; 221.
squadron; 215, 221.
New France; 222.
Newgate; 267, 293, 373.
Sessions; 81.
New-hall; 93.
Newland, Benjamin; 178.
Newman, Michael; 338, 339.

Newmarket, housekeeper at; 166.
Newnham, John, the son; 312.
—— the father; 312, 313.
Lewis; 312, 313.
Nathaniel; 312.
New Park, keeper of the; 167.
Newport, Viscount; 87, 91, 295, 372.
New River; 103.
Newsham, —; 343.
Newton, Barbara; 11.
George; 91.
James; 93.
John; 11.
Samuel; 11.
Estate Act; 11.
v. Ballett; 93.
New York; 188.
Niccolls, Thomas; 341.
Nicholas, —; 267.
John; 64.
Sir John; 110, 111.
Nicolai, John James; 61, 62.
Nicoll, Anthony; 292, 293.
Humphrey *v.* Keigwin; 292, 293.
John; 292, 293, 320.
Richard; 341.
Nicholls, Capt.; 200, 201.
John, the elder; 118.
John, the younger; 118.
Nieuport; 186.
Nobility. *See* England.
Noel, John; 342, 343.
Dame Susannah; 342.
Non-Swearers; 379.
Norborne, Humphrey; 272.
Norcliffe, Marmaduke; 375.
Nore, the; 200, 209, 210, 215–217, 223, 226, 231, 238, 239.
Norfolk, co.; 42, 105, 333.
Norfolk, Duke of; 87, 249.
Henry, Duke of; 278, 279.
Henry, Duke of, Divorce Bill; 17–27, 46, 278.
Duchess of; 279.
Mary, Duchess of, Lady Mary Mordant [Divorce Bill]; 17–27, 278.
Norgate, Elias; 43.
Norman, John; 191.
Normandy; 214.
coast; 242.
Norris, John; 167, 170.
Capt. John; 228.
North, Lord Keeper; 55, 56, 97, 119, 276, 321.
Thomas; 321.
Northam, church of, 109, 110.
Northampton, co.; 42, 282.
Marquess of, Act; 18.
North Chappell; 320, 321.
Northchurch; 337, 338.
Northcote, John; 1, 2.
Sir John, of Hayin, co. Devon; 1, 2.
—— his son Arthur; 1.
—— his son Arthur's daughter Elizabeth; 1.
—— his son John; 1.
Sir Arthur [son of Sir John]; 1, 2.
—— his widow Lady Elizabeth; 2.
Northcote—*cont.*
Sir Francis, son of Sir Arthur; 1, 2.
Dame Elizabeth; 2.
William, and Alice his wife; 1, 2.
Northey, Ed.; 252.
Mr.; 353.
Edward, Attorney of the Duchy of Lancaster; 124, 273.
Northleigh, Henry; 1, 2.
Norton, Col. Ambrose; 91.
Doyley; 98–100.
John (the grandfather); 98, 99.
John (the father); 98, 99.
—— his widow; 99.
Mary; 99, 100.
Northumberland, Duke of; 157, 164, 169, 249.
his privilege; 293.
Northumberland, county; 45, 46.
Northwood Chastners, co. Kent; 302.
Northwood Hall; 261.
Nottingham, county; 42.
Nottingham, Earl of; 87, 137, 179–184, 196, 198–201, 208, 212–214, 218, 219, 221, 222, 234, 239, 244, 245, 302.
Lord Chancellor; 96, 275, 376.
Norwich; 37.
William Lloyd, Bishop of; 15, 16.
weavers of; 36, 41.
stuffs or goods; 37, 43.
worsted manufactures in; 41.
Norwich, Sir Erasmus; 271.
Norwood, Edward; 323, 324.
Henry; 260, 267.
Thomas; 267.
William; 267.
Noyes, Noyce, Robert; 272.
Nussey, Benjamin; 109.
Gilbert; 109.
Laurence; 109.
v. Sheppard; 109.

O

Oaks, young; 46, 47.
Oates, Titus; 171.
O'Brion, Connor; 72.
Officers, foreign; 197.
Offices (Buying and Selling) Bill; 362–364.
Ogar, Colonel; 169.
Edward; 383.
Old Court; 319.
Oldish, Dr.; 384.
Oliver, Benjamin; 32.
John; 167.
Ordnance Office; 167, 168, 357, 358.
Office list; 194, 195.
—— list of officers and ministers of the; 188–193.
Board of; 186.
officers; 179–181.
—— in Ireland; 199.

Ordnance Office—*cont.*
Treasurer to the; 175.
—— *See* Bertie.
storekeeper of; 167.
strangers in the Office of; 186.
brass; 196.
Ormond, James, Duke of; 71, 172, 188, 369.
Ornay [Alderney], Race of; 245.
Orppe, Samuel; 84.
Orton, Captain William; 238.
Osbaston's Estate Act; 336.
Cecily; 336.
Francis; 336.
Mary; 336.
Osborn, Sir John; 383.
Osborne, Sir John; 169.
Richard; 119, 120.
Ossulston, Lord; 298, 364.
Ostend; 186, 199, 200, 220.
Ostenders [ships]; 219.
Otterden; 302.
Otter hunter; 166.
See Smith.
Otterington, John, *v.* Hayes, John; 251.
—— his daughter Mehitobell; 251.
Ottley, Ad.; 381.
Sir Adam, Master in Chancery; 16.
Oundle; 282, 283.
the town of, &c., *v.* Barton; 98–100.
Outlawries Bill; 341, 352.
reversal of; 48.
Owen, David; 15.
Richard; 25.
Rowland; 21–23, 26.
Owlers; 384.
Owting, John; 82.
Oxenden, Dr.; 18.
Oxford; 376.
Bishop of; 247.
—— *See* Fell.
Earl of; 87, 168, 187, 188, 249, 252, 373.
University, confirmation of charters, 17, 247
Brazenose College; 356.
Christ Church College; 66.
Oxfordshire; 42, 269.

P

Packer, John; 166.
Packet boats; 161, 164.
Packington, Sir John; 387.
Packwood, co. Warwick; 376.
Page, Benjamin; 313.
Jane; 330.
Katherine; 336.
Paget, Lord; 298.
Pagett, Henry; 50.
Paine, A.; 121.
Roger; 302.
Pall Mall; 121.
keeper of the; 166.
Palmer, Geoffrey; 271.
Sir Lewis; 99.
Sam.; 108, 355.
Thomas; 341.
Panton, Thomas; 1, 68.
Papists, Act disabling of; 69.
Paravicini, Sir Peter; 50.
Pardon, charters of; 366.
Parham. *See* Willoughby.
Paris; 217.
Parker, Mr., 389.
Sir George; 103, 104.
—— Estate Act; 250.
Peter; 379–81.
Philadelphia; 103, 104.
Robert; 103, 104.
Sarah; 103, 104.
Thomas; 103, 104.
William; 103, 104.
v. Thornhill; 103.
Parkinson, William; 82.
Parks, William; 167.
Parliament; 81, 370.
Act touching proceedings in; 279.
oath concerning the assembling, &c. 69.
Office; 7.
privilege of; 87, 367, 381.
prorogation of; 82, 83.
Clerk of the. *See* Johnson.
Papists in; 69.
Triennial Bill, 299–302, 305, 390.
Parliamentary Elections (False Returns) Bill; 376–378.
Parnell. *See* Purcell.
Partridge, James; 82.
Capt. Robert; 228, 236.
Paske, —; 29.
Paston, Hon. Robert; 63.
—— Anne his wife; 63.
v. Lord Howard of Effingham (privilege); 63.
Paterdale; 320.
Patney, co. Wilts; 272.
Patten, Thomas; 61.
Paunceforte, George; 274.
G. R.; 29, 30.
Peach, Thomas; 189.
Peachey, William; 320.
Peacock, Lieutenant; 236.
Peake, John; 384.
Pearce, or Peare, Edward; 32.
Edward, and Rebecca his wife; 32.
Rebecca, Henry Tross *v.*; 31, 32.
See Trosse.
Peare. *See* Pearce.
Pearson, ——; 374.
Pedlars. *See* Hawkers.
Pedor, Capt.; 369.
Peer, trial of a; 294.
Peers, minor; 367.
widows of; 367.
as trustees, privilege; 6.
See also Privilege.
Peers, Charles; 341.
Pelling, Sam.; 191, 194.
Pells, clerk of the; 167.
Pemberton, Fra; 112.

Pembroke, Henrietta, Countess Dowager of; 309, 311.
Earl of; 51, 294.
Thomas, Earl of, and Montgomery, Lord Privy Seal; 307.
Earl of (Amendment of Records); 307–312.
and Montgomery, Philip, Earl of; 307–311.
Pendennis; 190, 196.
Pendlebury, James; 191.
Pendrel, Ellen; 170.
Pennington, Mary; 22, 27.
Pensions, particulars of; 168.
Pensions, Pensioners. *See* Accounts Commissioners.
Penton, Hen.; 285, 286, 288.
Pepys, Thomas; 348.
Percevall, Susannah; 298.
Perpetuanoes; 43, 335.
Perry, Humphrey; 291.
Capt. John; 229.
Peterborough; 282, 283.
level; 67.
Peterborough, Bishop of; 98.
Lady; 22.
Lord; 22.
Peters, Erasmus; 195.
Gover; 193.
Petit. *See* Pettitt.
Petre, Mr.; 255.
Pettit *v.* Hyde; 258, 259.
Pettitt, John, of Aldersgate; 40.
Petit, Lewis; 194.
Petty Bag, clerk of the; 266, 268.
Petworth (North Chappell) Act; 320.
Petworth Bill; 316.
rectory; 320.
Pheby, Richard; 193.
Phelps, William; 189.
Philips, Henry; 167.
Phillips, Sir Ambrose; 28, 95, 96, 116, 117, 274, 275, 285, 289, 312, 334.
Thomas; 189.
Philpott, —; 310.
Phipps, Mr.; 368.
Physicians, College of; 378.
Pickard, Captain; 235.
Pickering, Henry; 98.
John; 7.
Pierrepoint, Lady Grace; 328–331.
Pierrepont, William; 247.
Pike, Lieutenant; 235.
Pillaer, Henry; 192.
Pincke, John; 121.
Pincombe, John; 293.
Pindarves, —; 285.
Pinfold, Sir Thomas; 19, 23, 356, 357.
Pingrey, Mr.; 268.
Pipe, comptroller of the; 167.
clerk of the; 167.
officers of the; 151.
Pitt, Matthew, Estate Act; 291.
Robert; 291.
—— his wife; 291.
Samuel; 387.
Pittman, Ralph; 336.
Thomas; 336.
Pittoway, Edward; 193.
Place Bill; 279–281.
Place Gwynne; 49.
Plantation goods. *See* Accounts Commissioners.
Plate. *See* Accounts Commissioners.
Plempers, or Plemper, Simon; 193.
Pluckley, co. Kent; 302.
Plucknet, John; 349.
Plymouth; 189–191, 196, 205–207, 215, 218, 221–224, 232, 233, 236, 240.
Plymouth, Countess of; 168.
Earl of; 389.
Pocklington, William; 333.
Pocock, Thomas; 13.
Pococke, William; 341.
Poet Laureate. *See* Shadwell.
Poley. *See* Pooley.
Poll. *See* Accounts Commissioners.
Pollexfen, Chief Justice; 266.
Pomfreit; 333.
Pontsbury; 261.
Poole Myvod, rectory of; 66.
Pooley, or Poley, Henry; 110.
Poolman, John; 190.
Popham, Alexander, Estate Act; 292.
Sir Francis; 292.
Portland; 244.
Portland, Earl of; 87, 187, 188, 212.
Portlock, William; 315.
Port Royal, Jamaica; 274.
Portsmouth; 189, 190, 193, 195, 199, 200, 201, 205, 206, 208, 212, 213, 215, 216, 219–221, 223, 224, 231, 233, 237–239, 242, 357.
mayor of; 203.
Post Office; 130, 174, 175.
[pensions]; 161.
packet boats; 161, 164.
See Accounts Commissioners.
Poth, Isaac; 194.
Potter, —; 355.
Pottinger, John; 167.
Potts, Capt. Charles; 22, 27.
Pouldon, John; 341.
Poultney. *See* Pultney.
Poulton, B.; 336.
Poultry Compter; 94.
Powell, Baron; 65, 89, 90, 103, 104, 110, 255, 310, 352.
Justice; 83, 113.
P., of Castle Madock; 49.
Thomas; 37, 40.
Barnham, Estate Act; 272.
Power, —; 28.
Powis, William, Marquess of; 66.
Powle, H., Lord; 87.
Powley, Thomas; 78.
Powys, Sir Thomas; 18, 22, 23, 30, 34, 36, 55–57, 63, 84, 85, 93, 95, 96, 99, 101, 103, 106, 110, 113, 123, 124, 247, 250–253, 257, 259, 268, 269, 273, 276, 282, 285, 290, 291, 303, 309, 312, 316–318, 322, 324, 325, 330, 331, 334, 338–340, 343, 346, 347, 356, 357, 365, 367, 368, 374, 378, 389.
Powys, Littleton, Welch judge; 166.
Praed, John; 285.

Prat, James; 171.
Pratt, John; 119.
Preduay, Rament; 198.
Preston, Thomas; 61.
—— of Holker; 67.
Sir Thomas; 67.
Prevarino, John; 195.
Price, Mr.; 295.
Lady; 168.
Charles; 341.
Mrs. H.; 121.
John; 288.
Robert, of Geeler; 95.
—— and Katherine his wife; 95.
Roger, Estate Act; 288.
Thomas; 86, 339.
See St. Asaph.
Prickett, George, Master in Chancery; 375.
Prideaux, Edmund; 341.
Edmond, his daughter Susannah; 273.
Helen; 170.
Prince, John; 22, 27.
William; 76.
Printing, Act for regulating; 379, 380.
See King's Printing Office.
Prior, William; 312.
Privateers; 201, 219, 221.
insolence of; 199.
French; 215, 218.
French and Irish; 199.
See Man-of-war, private. Trade.
Privilege; 6, 17, 87, 246, 247, 254, 258, 259, 267, 268, 272, 294, 306.
of King's servants; 91, 94, 254, 284, 357, 362, 366, 381.
of Parliament; 87, 367, 381.
Earl of Bath *v.* Earl Mountague; 91.
of peers, &c. *See* Abergavenny, Bolton, Huntingdon, Mohun, Morley, Northumberland, Parliament, Paston, Peers, Rochester, Somerset, St. Davids.
Privy Chamber; 91, 94, 95, 284.
Council; 126, 127.
—— *See* Ireland.
Purse. *See* Accounts Commissioners.
Seal, the Lord; 306, 309, 310.
—— Lord. *See* Pembroke.
—— Commissioners of the; 151.
Prizes, commissioners of; 385.
Protections; 248.
Protheroe, Evan; 195.
Proudsfoot, co. Meath; 70.
Public Record Office; 221, 222, 226.
Pultney, Poultney, Mr. John, clerk of the Privy Council, Ireland; 370, 372.
Punshon, William; 278.
Purcell, Col., his regiment; 216.
or Parnell, Lawrence; 22, 27.
Mathew; 191, 194.
Purchase, William; 22, 27.
Pursuivants; 167.
Purveyance; 77.
Putt, William; 195.
Pybus, John; 195.
Matthew; 195.
Pye, John; 91.
Pyworthy, manor of; 2.

Q

Quakers; 380.
Evidence Bill; 53.
taking administration; 379.
Quarter Sessions (Writs of *Certiorari*) Bill; 344–346, 357.
Quavere, or Quaviere, John de; 191.
Quebec; 222.
Queen Dowager; 157, 169.

R

Radford, Alderman; 108.
Radnor, Earl of; 24, 288.
Ralph, —; 88–90.
Rampisham; 332.
Ramsey, Brigadier; 188.
Col.; 188.
William; 323, 324.
Randall, John; 193.
Ranelagh, Earl of; 87, 91, 135, 163.
Ranton, John; 192.
Raphe, William; 341.
Rapparees; 369.
Rashell, Thomas; 194.
Ratcliff, Joseph; 167.
Ratliffe, Dr.; 343.
Ratton, co. Sussex; 250.
Rawlinson, —; 362.
Sir William, Serjeant and Lord Commissioner; 11-13, 322.
Raworth, Robert; 323, 341.
Rawson, Benjamin; 249.
Raymond, Charles; 291.
Rayner, John; 315, 316.
Raynes, Sir Richard; 18, 19.
Rea, Thomas; 38.
Read, Capt.; 170.
Charles; 22, 25, 27.
Reading; 121.
stables, keeper of; 166.
Reading, Na.; 125.
Reason, Hugh; 384.
Receipt, officers of the; 166, 167.
Receivers. *See* Accounts Commissioners.
Records, keeper of. *See* Williamson.
Amendment of. *See* Pembroke's Bill, Earl of.
Recusant, a; 290.
Popish; 304.
Reding, Mr.; 330, 331.
Redish; 91.
Red Sand buoy; 201.
Reeves, James; 235.
Regicides, the; 92.
Regiments, lists of; 188.
Relfe, Mr.; 279.
Remembrancer. *See* Ayloff.
Remembrancer's Office; 167.
Rent. *See* Accounts Commissioners.
Requests, Court of; 9, 10.

Restoration, the; 100.
Returns, false. *See* Parliamentary Elections.
Revels. *See* Killegrew.
Reymes, Bullen; 284, 285.
Reynell, Carew; 13.
Mrs. Elizabeth; 11–13.
Reyner [or Keymer], Henry; 21, 23, 26.
Reynolds, Edward; 193.
John; 22, 25, 27.
Mary and Elizabeth; 171.
Moses; 86.
W.; 86.
Reyter, or Ryiter, John de; 192.
Ricautier, Ricauter, Jaques; 194.
Richards, Elizabeth; 170.
Capt. Godfrey; 195.
Jacob; 189, 191.
Col. Jacob; 22, 27.
Jo.; 87.
Capt. John; 169.
Michael; 192.
Richardson, Robert; 355, 381.
Thomas; 264, 321.
—— Grace his wife; 264.
Richborough; 302.
Richier, Isaac, Governor of Bermudas; 166.
Richmond, Peter; 379.
Duchess of; 157.
Frances, Duchess of; 33.
—— *See* Alnage Bill.
and Lenox, Duchess of; 169, 335, 339, 340.
Charles, late Duke of; 34.
Rheede, Baron de. *See* Ginckell.
Ridley, William; 375.
Rivers, Earl; 429.
Rix, Susan; 29.
Roach, Barbara; 171.
Francis; 172.
James; 171.
Roadaway, William; 321.
Roads, guide to the; 167.
Roberts, Sir Gabriel; 50.
George; 8.
John; 191.
Matthew; 167.
Robes, Master of the; 139, 163, 175.
Robin's tenement; 122.
Robinson, —; 333.
Mr.; 369.
Augustin; 207.
Francis; 379.
Jonathan; 381.
Capt.; 208, 215, 221, 223.
Capt. Robert; 228.
Capt. Henry; 227.
Leonard; 374, 375.
Richard; 64.
—— M.D.; 80.
William; 64.
Robson, Captain; 182.
Ann, Sarah Bayly *v.*; 29–31.
James; 29.
Katherine; 29, 30.
Mary Ann; 29, 30.
Roch, Barbara; 249.
Rochester; 248.
Rochester, Earl of; 24, 87, 161, 167, 179, 183, 186, 212, 229, 262, 263, 270, 281, 295, 306, 307, 319, 351, 364.
Lawrence, Lord; 67.
—— Earl of, *v.* Lord Grey (privilege); 45–47.
Rochfort; 214.
Rockingham, Lord; 298.
Rodbard, Thomas; 76.
Roe, Edward; 2.
Roffey, John; 61.
v. Hunt; 61.
Rogers, Anthony; 328.
Claudius; 195.
Ford; 249.
Henry; 328.
John; 168.
Thomas; 76, 353.
Rokeby, Justice; 90, 111, 299, 300, 310, 334.
Rolls, Master of the; 116, 166, 268, 303.
—— *See* Grimes. Trevor.
Chapel, records of the; 269.
Rome, Church of; 278.
Romer, Voest; 197.
Wolfgang William; 194.
Rooke, George, Vice-Admiral; 210–213, 234, 235.
Capt. Thomas; 227.
Rose, Ellen; 170.
vicar of; 169.
Ross, Anne; 21, 26.
Mary; 21, 26.
Rothmell, Hannah; 26.
John; 22, 27.
Rotiers, John, Philip and Joseph; 167.
Rotterdam; 240.
Rouss, John; 76, 353.
Row, Col., his regiment; 188.
Rowe, Mr.; 61.
John; 2.
Sir Thomas, of St. James', Clerkenwell; 81.
Rowes, Cuthbert; 374.
Sir William; 375.
Rowney, Thomas; 191, 253.
Royal Regiment; 188.
Rubert, Robert; 193.
Ruborough, John; 81.
Rudd, Richard, M.P.; 49.
Ruddle, Robert, *v.* Cass; 274.
Rugs; 37.
Russell, Admiral; 181–185, 199, 201, 202, 207, 210, 211, 216–218, 222, 237–239, 241, 244, 245.
—— and the Admiralty, letters to and from; 202–214, 217–245.
Rt. Hon. Edward; 135, 163.
Sir Francis; 387.
Mr.; 184, 242–244, 358.
Robert; 167.
Lord; 46.
Sir William; 50.
Rutland, county; 342, 343.
Rutland, Earl of; 122, 198.

Ryan, Walter; 28.
Ryder, Martin; 82.
Rye; 210, 232.
Ryiter. *See* Reyter.
Ryley, Mr., Serjeant; 64.
Philip, Surveyor-General of H.M. Woods; 64.

S

Sadler, Sir Edwin, Estate Act; 15.
Charles; 26.
John; 321.
Salisbury, Sarum; 37, 272.
Salisbury, or Sarum, Bishop of; 151, 278, 300, 301.
James, Earl of; 328.
Salladine, Herbert; 310.
Salop, county; 42, 261.
Salt, exporting; 387.
works at Droitwich; 387, 388.
Salter, Edward; 82.
Richard; 86.
Salters' Company; 322.
Saltpetre; 189.
Salwerpe River Navigation Act; 386–389.
Salwey, Edw.; 341.
Sandcroft, Mr.; 142.
Sanders, Capt. Hum.; 227.
Sandwich, Earl of; 121.
Sandy, Roger; 316.
Sandys, Miles; 254.
Samuel; 387.
Sansawe, co. Salop; 84, 85.
Sarrason, William; 195.
Sarum. *See* Salisbury.
Saterthwaite. *See* Satterthwaite.
Satterthwaithe, Bryan; 98.
—— and his wife; 99.
Saunden, Richard; 193.
Saunders, John; 358.
Savage, Thomas; 387.
Savile, John; 302.
Savill, Richard; 107.
Saville, Anne; 333.
Savoy; 220.
Sawbridge, Mrs. Edith; 22, 23, 27.
Sawyer, John; 293.
Sir Robert; 45.
Sir Robert, Attorney-General; 38.
Saxony; 62.
Say and Sele, Lord; 121, 122, 298.
Says; 42, 43.
Scarborough, Earl of, formerly Lord Lumley; 18, 46, 47, 93, 180, 181, 188, 248, 296.
Scarsdale, Robert, Earl of; 86–91.
Scawen, William; 341.
Scele, Thomas; 190.
Schanternell. *See* Van Scanternell.
Schelder, or Schilder, Erick; 194.
Schey, Skey, Vice-Admiral; 210, 211.
Schilder. *See* Schelder.
Schint, John; 194.
Schlunt, John or John Lodowick; 192.
or Schlundt, John Symon; 190, 191.
Schmettau, Christopher de; 62.
Schonberg, Charles, Duke of; 169, 188, 298.
Scilly; 224.
Scorton, co. York; 374, 375.
Scotch ships; 200.
Scotland; 71, 217.
Scott, Daniel; 76, 353.
Matthew; 22, 27.
Michael; 193.
Peter; 41.
Scriber, Peter; 22, 25, 27.
Scroggs, Lord Chief Justice; 87.
Scudamore, George; 44.
Mary; 71.
Milborne; 44.
Sea-water Freshening (Walcot's Patent) Bill; 378, 384.
Seager, Anthony; 168.
Seal, Great, Commissioners of the; 166.
Privy, Commissioners of the; 166.
Seals, engraver of; 167.
Seamen, English; 73.
foreign; 73.
payment of; 233.
want of; 230.
Searching. *See* Butter and Cheese.
Seares, John; 239.
Sedgwick *v.* Hitchcock; 258, 259.
Selby, Thomas; 81, 82.
Serges; 37, 42, 43, 335.
Serjeants at arms; 166.
Severn Fishery Bill; 246.
river, passage into the river Salwerpe from; 388.
Severne, Thomas; 261.
Sexton, Richard; 81.
Seyliard, Robert; 91, 357.
Seymour, Sir Edward, Estate Act; 284.
Seys, Richard, of Lincoln's Inn; 335.
Shadwell (St. Paul's) Waterwork Act; 32.
Thomas Neale, governor; 33.
Stepney and East Smithfield, waterworks for; 33.
Shadwell, Thomas, Poet Laureate; 166.
Shaftesbury, Earl of; 298.
Shale, Mr.; 330.
Shales, auditor; 166.
John; 50.
Thomas; 50.
Shalford, co. Essex, brickfield at; 316.
Shalloons; 43.
Shalmer, —; 315, 316.
Shanler, —; 29.
Shannon, the; 216.
Shannon, Francis Boyle, Lord, Estate Act; 333.
Sir James, his son; 370.
Shapwicke, co. Dorset; 117.
Sharp, Charles; 193.
Shaw, Charles; 63.
—— Elizabeth his wife; 63.
William; 46, 47.
Sheerness; 169, 189, 190, 200, 202, 223, 225, 239.

Sheldon, Mr.; 330.
Francis; 387.
Shelley, John; 336.
Shenley, co. Hertford; 337, 338.
Shepard, Thomas; 341.
Shepheard, John; 7.
Sheppard, Edward; 109.
Elizabeth; 110.
Thomas; 109, 110.
William; 109, 110.
Nussey *v.*; 109.
Sheppey, Countess of; 319.
Sherborne; 121.
Sherbrooke [Cherbourg]; 211.
Sheriff, Mary; 22, 27.
Sheriffs. *See* Accounts Commissioners.
Sherlock, Doctor, Master of the Temple; 167.
Sherrard, Daniel,; 194.
Sherrington, Mr.; 22.
Sherwood, Edward; 28.
Ship called the:
"Admirable"; 211.
"Adventure"; 202–204, 208, 218, 219, 226, 228.
"Advice"; 202–204, 216, 217, 221, 226, 229.
"Albemarle"; 208, 229.
"Amsterdam"; 204, 221.
"Ann"; 215, 224.
"Artottill"; 219.
"Asia Minor"; 286.
"Berwick"; 207, 228.
"Beschermer"; 204.
"Blaze"; 206, 226, 228, 230.
"Bonaventure"; 215, 221, 225, 227, 237.
"Boyne"; 231.
"Brandenborgh"; 204.
"Brave"; 220.
"Breda" or "Bredah"; 201, 202, 204, 220, 226, 229, 230, 232, 238–240.
"Bristol"; 202.
"Britannia"; 207–209, 213, 214, 224, 228, 230, 234.
"Burford"; 207, 208, 227, 235.
"Cadiz Merchant"; 202, 203, 206, 226, 229, 230, 232.
"Cambridge"; 207, 215, 221, 229.
"Canterbury"; 222.
"Captain"; 207, 208, 227, 235, 236.
"Captain Generall"; 204.
"Carolina"; 238.
"Centurion"; 215, 218, 219, 227, 230, 236.
"Charles II."; 325.
"Charles" galley; 202–204, 207, 215, 220, 236.
"Chatham"; 202, 204, 220, 229, 230, 232, 237.
"Chester"; 221, 228, 234, 235.
"Comte Reville"; 220.
"Concord"; 202, 219.
"Conquerant"; 211.
"Cornwall"; 202, 204, 206–208, 226, 227, 230–232.
"Corquein"; 219.
Ship called the—*cont.*
"Crown"; 202, 203, 208, 221, 222, 226, 227, 239, 241.
"Cygnet"; 207, 220, 236.
"De 7 Provintien"; 204.
"Defiance"; 207, 221, 228.
"Delf"; 220.
"Deptford"; 205, 215, 218, 224, 227, 235, 236.
"Despatch"; 223, 241.
"Devonshire"; 202, 204, 206, 208, 226, 227, 230, 232, 239, 241.
"D'Gebroaders"; 204.
"Discovery"; 223.
"Dolphin"; 199, 237, 238.
"Dover"; 235.
"Dragon"; 203, 204, 216, 221, 234.
"Dreadnought"; 207, 208, 221, 222, 227, 237.
"Duchess"; 207, 208, 228, 230.
"Duke"; 207, 208, 227.
"Dunkirk"; 223, 235, 238.
"Eagle"; 207, 208, 228, 237.
"Edam"; 221.
"Edgar"; 207, 208, 228.
"Eerste Edele"; 204.
"Elizabeth"; 207, 208, 228.
"Essex"; 207, 208, 227.
"Etna"; 208, 228.
"Etswont"; 204.
"Exeter" hulk; 215, 223.
"Expedition"; 207, 208, 229.
"Experiment"; 217, 221, 234.
"Extravagant"; 206, 215, 226, 227.
"Falcon"; 203, 204, 215, 216, 220, 223.
—— brigantine; 215.
"Flame"; 208, 228.
"Fox"; 206, 226, 229.
"Francis de la Paix"; 219.
"Friesia"; 208.
"Fubbs"; 202.
"Garland"; 223.
"Gelderlandt"; 204.
"Germoon"; 205, 218, 219.
"Goodwin"; 218, 235.
"Grafton"; 207, 208, 228.
"Granadan"; 219.
"La Grand Joseph"; 220.
"Greenwich"; 220.
"Greyhound"; 202, 216, 217, 220, 241.
"Griffin"; 228, 230, 232, 236.
"Haarlem"; 204.
"Half Moon"; 202, 203, 206, 226, 229, 230, 232.
"Hampton Court"; 207, 208, 229, 235.
"Happy Return"; 235.
"Harp" ketch; 235.
"Hawk"; 202–204, 216, 227, 230, 232.
"Hoorne"; 221.
"Hope"; 207, 208, 227.
"Hopewell"; 206, 226, 229, 230.
"Hound"; 206, 215, 226, 227.
"Hunter"; 208, 227.
"Isabella"; 215.

Ship called the—*cont.*
"James"; 202, 204, 237.
—— galley; 218.
"John"; 314, 315.
"Julian"; 215.
"Kent"; 207, 220, 229.
"Kingfisher"; 223.
"King William" yacht; 240.
"La Machine" a French privateer; 218, 219.
"Lark"; 202, 217.
"Lenox"; 207, 227, 239.
"Leyden"; 204.
"Lightning"; 208, 229, 230, 232.
"Lion"; 207, 221, 229.
"London"; 208, 228, 230.
"London Merchant"; 201, 202, 222, 223, 238.
"Lumley Castle"; 236.
"Machine"; 218, 219.
"Mary" galley; 203, 204, 211, 221, 234.
"Medenblick"; 220.
"Mermaid"; 216, 217, 222.
"Milford"; 203, 204, 215, 216.
"Monk"; 202, 204, 207, 219, 220, 229, 230.
"Monmouth"; 207, 215, 221, 228.
"Morgan and Ann" hoy; 238.
"Mountague"; 207, 208, 215, 228.
"Neptune"; 207, 208, 229, 230, 236.
"Newcastle"; 240.
"New London"; 325.
"Noorth-Hollandt"; 204.
"Northumberland"; 207, 208, 229.
"Oak"; 225.
"Old African" of London; 285.
"Ossory"; 208, 224, 227, 230.
"Owner's Love"; 208, 220, 222, 229, 230, 232.
"Oxford"; 218, 224, 229, 230, 241.
"Pearl"; 204, 206, 222.
"Pembroke"; 221, 222.
"Phæton"; 226, 229.
"Phœnix" bomb vessel; 220.
"Plymouth"; 202, 204, 207, 208, 218, 224, 230, 232, 239.
"Portsmouth"; 202, 205, 215, 216–218.
"Prince of Wales"; 219.
"Princes"; 204.
"Prins"; 204.
"Providence"; 219.
"Quaker" ketch; 222.
"Queen Mary"; 220.
"Reserve" frigate; 201, 221, 238.
"Resolution"; 207, 208, 215, 222, 226, 229, 238.
"Restoration"; 207, 208, 228.
"Richmond"; 198, 199, 217, 237.
"Ripperda"; 204.
"Roe" ketch; 215, 218.
"Roebuck"; 220, 228, 230, 232.
"Rose"; 213.
"Royal Catharine" or "Katherine"; 208, 227, 234.
"Royal Charles"; 203.
"Royal James"; 220.
Ship called the—*cont.*
"Royal Oak"; 202–204, 207, 208, 229, 230, 232.
"Royal Sovereign"; 207, 227, 230.
"Royal Sun"; 211.
"Royal William"; 203, 205, 206, 223, 229, 230.
"Ruby"; 202, 203, 216, 217, 221, 226, 229, 230, 239.
"Rupert"; 202, 203, 215, 221, 222, 224, 228.
"Russell"; 206, 231, 239.
"Salamander"; 202, 220.
"Sally Rose"; 215.
"Sandwich"; 208, 229, 235, 274.
"Samuel and Henry"; 205, 217.
"Sandadoes"; 202, 208, 216–218.
"Sapphire"; 239.
"Schattershouff"; 204.
"Seven Heads"; 219.
"Shark" brigantine; 220.
"Sheerness"; 202, 204, 221.
"Signal"; 221.
"Society"; 202.
"Sovereign"; 208, 225.
"Speedwell"; 208, 228.
"Spy"; 221, 228, 232.
"St. Alban's"; 202–204, 221, 226, 229, 230, 232, 233, 235.
"St. Andrew"; 206, 228, 230.
"St. Aron"; 219.
"St. Esprit"; 219.
"St. Lee"; 220.
"St. Martin"; 218.
"St. Michael"; 208, 227, 230.
"St. Nicholas"; 219.
"St. Peter"; 219.
"St. Vincent"; 208.
"Stadt en Landt"; 221.
"Stirling Castle"; 207, 208, 227, 240.
"Strombolo"; 220, 229.
"Suffolk"; 207, 208, 227.
"Sun"; 218, 220, 224.
"Swallow"; 235.
"Swan"; 315.
"Sweepstakes"; 225.
"Swiftsure"; 207, 208, 229, 235.
"Tergoes"; 204, 221.
"Thomas and Elizabeth"; 202, 203, 206, 226, 227.
"Tiger"; 202–204, 215, 222, 224, 226, 227.
"t' Stot Muyden"; 204.
"Unity"; 286.
"Unity Pink"; 238.
"Vanguard"; 208, 225, 228.
"Vellu'w"; 204.
"Vere"; 204.
"Vesuvius"; 208, 227, 230.
"Victory"; 207, 208, 219, 228.
"Virgin"; 203, 204, 215, 234.
"Vulcan"; 208, 227.
"Vulture"; 208, 228.
"Warspite"; 207, 221, 228.
"William and Betty"; 303.
"Windsor Castle"; 208, 229.
"Wolf"; 206, 217, 226, 227, 235.

Ship called the—*cont.*
"Woolwich"; 215, 220, 227.
"York"; 202–204, 207, 208, 225, 227, 230, 235.
"Zeelandt, A."; 204.
Dutch; 204, 208, 210–212, 215, 217, 219–222, 224.
English; 72, 73, 384.
French; 218–220.
French privateers; 218, 219.
—— *See also* Privateers.
Irish; 201.
Ostenders; 219.
Scotch; 200.
Building Bill; 63.
timber; 64.
fleet or ships; 201, 210–213.
vessels, or fleet, the French; 213, 216–220, 222, 242–244, 274.
See also Privateers.
Shipping. *See* Navigation.
Shovell, Sir Cloudesley; 205, 210, 211, 215, 220, 233, 234, 287.
Shower, Sir Bartholomew; 290, 340, 348, 353, 374, 378, 384.
Shrewsbury, Earl; 186, 300, 379, 380.
Charles, earl of; 387, 389.
Shrewsbury, Mayor and others, and Wycherley and others; 84–86.
St. Mary's Collegiate Church; 84, 85.
Grammar School at; 84–86.
St. Mary's; 85, 86.
Sidney, Lord. *See* Sydney.
Silk. *See* Wool.
Silsden, co. York; 246.
Silver, Capt. Thomas; 189, 192.
Silver's wife, Capt.; 170.
Silvester, Edward; 191.
John; 189, 194.
Simmons. *See* Symonds.
Simpson, Elizabeth; 171.
Humphry; 368, 369, 384.
Sincock, Capt. Robert; 227.
Sing, Dean; 371.
Sisselle, Walter; 250.
Sisson, Edward; 190.
Skeffington, Clottworthy; 327, 328.
—— Rachell his wife; 327, 328.
Skey. *See* Schey.
Skinner, Francis; 111, 112.
John; 341.
Slaidborne; 82.
Slane, co. Meath, barony of; 70.
Slater, John; 192.
Slaughter, John; 248.
Slingsby, Sir Charles; 169.
Elizabeth; 169.
Mallet; 169, 383.
Sloane, James; 28, 35, 80, 250, 251, 266, 327, 370–372.
Smalbeane, or Smalbeen, Mathew or Mathias; 192.
Smart, James; 320.
Thomas; 320.
John; 248.
Smeaton, Thomas; 170.
Smelt, Matthew; 28.
Smith, —; 257.
Mr.; 43, 390.
Aaron; 87–91, 191.
Anthony; 267.
Elizabeth; 109, 110.
Edward; 347.
Sir Edward; 347.
J.; 348.
Jacob; 198.
James; 384.
John; 293, 318, 373.
—— of London; 40.
Mark; 362.
Robert, and Mary his wife; 102.
Simon; 166.
—— otter-hunter; 153.
Thomas; 37, 189, 384, 387, 389.
William; 59, 107, 139.
Zachariah; 194.
v. Coleby; 257.
v. Welch; 347–349.
Smithfield, waterworks for; 33.
Smyth, Dame Anne; 119, 120, 275–277.
—— James Boevey *v.*; 275–278.
B.; 76, 353.
James; 326.
Sir James; 118–120.
—— his brother George; 119.
—— Dorothy and Lucy, daughters of his brother George; 119.
Sir Robert, Estate Act; 271.
Snapes, Edward; 190.
Snow, Mr.; 187.
Jonath, Gorstelowe; 292.
Soanes, Capt. Jos.; 227.
Solicitor-General; 2, 29, 30, 32, 79, 84, 93, 101, 110, 111, 113, 115, 123, 166, 247, 257, 268, 273, 274, 276, 285, 286, 289, 291, 314, 317, 318, 322, 338, 343, 348, 356, 358.
See Sommers. Trevor.
Solms, Count; 179, 187, 188.
Somers tract; 203, 204, 226.
Somerset, Duke of; 300, 320.
—— privilege; 373.
Somerset, Somersetshire; 42, 250, 273, 274, 328.
Somins, William; 198.
Sommers, Somers, Sir John, the Attorney-General; 29, 98, 99, 112, 252, 289, 322, 326, 327, 334, 343, 358, 387.
Southampton, Duke of; 157, 164, 169, 248, 298.
—— *See* Wood.
Earl of; 112.
Southampton, town; 206.
Southwark; 43, 355, 362.
Southwell, Sir Thomas; 72.
William; 72.
Southwell School; 170.
Sowelby; 320.
Spain; 28.
Spaniards; 186.
Spanish ambassador; 161, 164.
Sparkes, a serjeant of the Poultry Compter; 94.
Sparks, Christopher; 289.
Sparrow, —; 315, 316.

Speaker, the, and his hat; 19.
reprimand by the; 24.
of the House of Commons. *See* Trevor.
Speiker, John; 197.
Spencer, George; 194.
Spithead; 205–207, 213–216, 221, 224, 230, 232, 233, 237, 238–242.
Splinter, Hendrick; 198.
Spy Park, co. Wilts.; 328.
Squibb, John; 11.
William; 286.
St. Albans; 214.
St. Albans, Duke of; 121.
Earl of; 112, 114.
St. Anne's Parish. *See* Westminster.
St. Asaph, Edward Jones, Bishop of; 303.
Bishop of, *v.* Price; 254.
St. Chad's, college of; 85.
St. Clement; 43.
St. David's, Bishop of (privilege); 49.
Bishop of. *See* Watson.
St. George, Thomas, Garter; 83.
St. George's Channel; 218.
St. Germains; 219, 220.
St. Helens; 204–207, 209–214, 216–222, 224, 226, 232, 233, 237, 240, 241.
St. James's; 190, 226.
housekeeper at; 166.
Park; 167.
St. James's Parish; 31, 169.
Westminster; 61.
St. John, Col., his regiment; 188.
St. Leger, Arthur; 251.
——; 390.
St. Malo; 182, 212–214, 216, 219, 220, 241–244.
St. Margaret's. *See* Westminster.
St. Martin in the Fields, parish of; 8, 31, 61, 62, 260.
St. Martin's Parish; 169.
St. Paul's, Dean of; 349.
St. Ube's Fleet; 215.
Staffall; 320.
Stafford; 291.
Stafford, Staffordshire; 42, 290, 387.
Stafford, Dr., Chancellor of Llandaff; 15, 16.
Lieutenant; 370.
See Strafford.
Stamford; 121.
carrier, the; 379.
Stamford, Earl of; 13, 18, 24, 84, 87, 90, 92, 125, 126, 180, 186, 247, 254, 258, 268, 300, 337, 349, 352, 364, 378, 389.
Stampe, Sir Thomas, Lord Mayor; 82.
Stane, Richard; 336.
William; 336.
Stanhope; Phillip, Lord; 31.
Lord, Estate Act; 31.
Sir William; 31.
Stanley, Daniel; 76.
Stanly, Capt. Edward; 228.
Stannus, William; 195.
Start, the; 218.
Stass. *See* States.
State of the Nation: Naval Miscarriages; 198.
States, or Stass, Samuel; 192.
Stationers, the Company of; 378, 380, 381.
Staunton; 122.
Stavely, co. Derby; 110.
Stavey, Nether, co. Somerset; 56.
Stawell, Anne; 328–333.
Mrs.; 331.
Lady; 55, 57.
Margaret, Lady; 328–331.
—— her sisters; 330.
John, Lord, Estate Bill; 328–333.
—— Cole *v.*; 54–57.
Ralph, Lord; 55–57.
William, Lord; 328, 329.
—— his brother Edward; 328, 329.
Stedman, Ja.; 123, 338, 339.
Steele, Richard; 108.
Stent, Richard; 321.
Stephens, A.; 340.
Ann; 121.
Francis; 364, 365.
H.; 34.
John; 170.
Thomas; 168.
Warwick; 289.
William, Estate Act; 336.
Stepkin; 91.
Stepney, waterworks for; 33.
Stevens, Richard; 357.
Thomas; 387.
Steventon, J.; 233.
Steward, Captain; 25.
Lord High; 10, 296, 297, 300, 306, 372.
Stewart [Ireland], Col.; 188.
—— his regiment; 188.
See Stuart.
Stiles, J. Huskin; 341.
Stills, Richard; 320.
Stiner, Mr.; 106.
Stoake; 387.
Stockings; 36, 38, 43.
Stocks, bailiffs put in the; 7.
Stokes, Thomas; 290.
Stone, Robert; 282.
Susan, *v.* Bourne; 282.
Bourne *v.*; 365.
Stony Stratford; 367.
Storer, John; 349.
Stourbridge, co. Worcester; 121.
Stourton, Judith; 22, 23, 27.
Stowell, co. Wilts; 272.
Stower, river, navigation of; 387, 389.
Straban. *See* Abercorn.
Strafford, Earl of; 17, 298.
—— trial of; 294, 295.
Stranaver, Lord; 170.
Straud, the; 61.
Streat, Henry; 321.
Streatham Castle; 375.
Streaton, or Stretton, William; 37, 41, 42.
Street, Sir Thomas; 387.
Stretton. *See* Streaton.
Strode, Hugh; 341.
Hon. John; 302.
Sir Nicholas; 302.
Dame Katherine; 302.
Thomas; 303, 341.

Stroud ; 43.
Stuart, Stewart, Capt. James ; 228.
Studholme, Michael ; 167.
Stuffs ; 42.
Kidderminster ; 42.
Sturton ; 319.
Stydolfe, Sigismund, *v.* Hull ; 321–323.
Subsidy on woollen manufactures. *See* Alnage.
Suffolk, co. ; 42, 105, 107–109, 226.
bargemen of ; 354.
boys trading from ; 355.
Suffolk, Earl of ; 298.
Earl of. *See* Howard.
Sugar. *See* Accounts Commissioners.
Sultzberger, C. Godofredus ; 62.
Sumpter, Robert ; 193.
Sunderland, Earl of ; 168.
Sundt, David ; 197.
Superstitious Trusts and Uses Bill ; 278.
Supplications to saints ; 381.
Supremacy, Oath of ; 127.
Oath of. *See* Ireland.
Surrenden Dering, co. Kent ; 302.
Surveyor-General ; 294.
Sussex, county ; 45, 46, 250, 319.
assizes for ; 313.
Sussex, Earl of ; 84, 297, 298.
Earl of, Estate Bill ; 319.
Thomas, Earl of ; 319.
—— his children Ladies Barbara and Anne ; 320.
Countess Anne ; 319, 320.
Suyck, Ulrick ; 194.
Swaile, the ; 209.
Swaile, Robert ; 286.
Swanson, John ; 303, 304.
Swarthof. *See* Swoarthof.
Swayle, Sir Solomon ; 91.
Swede [ship of] ; 241.
Sweetman, John ; 370–372.
Swindlehurst, Roger ; 82.
Swoarthof, or Swarthof, Cornelius ; 192.
Swood, manor of ; 250.
Yatton ; 250.
Swords ; 143, 165, 175.
Sydenham, Edward ; 169.
Sydney, Sidney, Lord ; 70, 87, 137, 163, 172, 175, 212, 297, 298, 369.
Lord, Secretary of State ; 167.
Sykes, Mr. ; 318.
Sylvester, Edward ; 22, 27.
Sylvius, Sir Gabriel ; 169.
Symmonds, John ; 81.
Symond, — ; 59.
Symonds, or Simmons, Capt. Thomas ; 228.
Syms, Thomas ; 193.

T

Talbot, Bruno ; 68.
Sir John, 387.
Talbot Court ; 44.
Tallies, Writer of the ; 77.
Tally Court ; 167.
Talman, William ; 167.
Talmash, Lieut.-Col. ; 188.
Thomas ; 187.
Tancred, Christopher ; 166.
Tandridge Hall, co. Surrey ; 324.
Tansor, co. Northampton ; 98.
Tax. *See* Land Tax.
Taxes, agents for ; 166.
Tayler, Captain ; 236.
Mathew ; 321.
Tayleur, Mr. ; 255.
Taylor, Andrew ; 85.
Richard ; 320.
Temple. *See* Inner Temple. Middle Temple.
Master of the. *See* Sherlock.
Tench, John ; 111.
Tenison, Thomas, Bishop of Lincoln ; 53, 62.
Dr. Thomas, minister of St. Martin's-in-the-Fields ; 62.
Tennis Court, Master of the ; 167.
Tenths. *See* Accounts Commissioners.
Tenures in capite, &c. ; 77.
Terry, Robert ; 379.
William ; 324.
Testefoyle, Testefoile, Claudius ; 194.
Tethering ground ; 59.
Tettersol, Nicholas ; 168.
Tewkes, Humphrey ; 320, 321.
Tewkesbury ; 91.
Thacker, Godf. ; 124, 125, 273.
Thames, the ; 198–200, 209, 223, 225.
shipping from the ; 238.
Thames Street ; 356.
cheesemongers ; 107–109.
Thanet, Earl of ; 19, 79.
—— his under-sheriff ; 8.
Thomas, Earl of ; 246.
Thayre ; 91.
Theakston, William ; 81.
Thelwall, Owen ; 288.
Thois, Marquis de. *See* Gowfier.
Thomas, Eliz. ; 381.
David ; 309.
Magdalen ; 170.
Samuel ; 86.
William ; 310.
or Tomesin, William ; 192.
Thompson, Sir William ; 20–23, 34, 35, 41, 253, 276, 309, 312, 340.
Ralph ; 7.
Thomas ; 80.
Leach *v.* ; 79.
Thomson, W. ; 16, 112, 276.
Thomson, Thompson, Mr. Serjeant ; 106, 330.
Thonock ; 333.
Thorley, Richard ; 264, 291.
Thornhill, Jeremiah ; 104.
Parker *v.* ; 103.
R. ; 275, 317.
Thorpe, John ; 190.
Tilbury ; 189–191, 196.
Tillie, Sir James ; 274.
—— his brother Jeremiah ; 274.

Tilly, Mr.; 262.
Tilney, Francis; 55, 56.
Tilson, Thomas; 71.
Tinmouth; 196.
Tirrell, Richard; 76.
Tithes; 70.
Small, Recovery Bill; 3–6.
Tobacco. *See* Accounts Commissioners.
Todd, —; 26.
Toleration, Act of; 54.
Toll, Charles; 168.
Tollet, George, secretary to Commissioners of Accounts; 167.
Tolley, Mr.; 97.
Tomesin. *See* Thomas.
Tompkins, —; 362.
Tomkyes, Francis; 194.
Tonge, Arthur; 86.
Tooby, Thomas; 81.
Tooke, Thomas, *v.* Sir Robert Atkyns, Lord Chief Baron; 11–14, 258, 259.
Thomas, deceased; 13.
—— great-grandfather; 13.
Topp, Edward, and Christian his wife; 55–57.
Topsham; 221.
Torbay; 213, 214, 218, 220, 221, 232, 233, 243, 244.
Torkington, Cath.; 121.
Torpley, Capt. John; 228.
Torrington, Earl of; 298.
Arthur, Earl of; 67.
Tos, Baptist; 193.
Tottenham Park; 272.
Tourville, Admiral; 182, 212, 216.
Towcester; 121.
Tower of London, the; 7, 46, 196, 294, 384.
lieutenant of the; 87.
deputy-governor of the; 87.
Lord Lucas, governor of the; 86, 87.
keeper of the stores in; 186.
office of ordnance in the; 197.
the. *See* Gunpowder.
Towers, Thomas, Estate Act; 333.
Townesend, George; 104.
Townshend, Henry; 387.
Toy, Henry; 387.
Trade, Committee for; 166.
with France Prohibition (Privateers) Act; 384–386.
Transport Office; 201.
Office protections; 224.
Commissioners of; 180.
See Navy.
Travers, Henry; 1.
Treadway, George; 341.
Treason, high; 65, 72, 86, 91.
Treasurer, the Lord; 74, 75.
See Bellemont.
Remembrancer's office; 168.
Treasury, the; 64, 77, 195, 255.
Commissioners of the; 74, 75, 165.
Lords of the; 8.
Treby, Chief Justice; 80, 85, 90, 310, 313, 343.
Sir G., Attorney-General; 263.
Trelill Manor, co. Cornwall; 292, 293.
Tremaine, Mr. Serjeant Jo.; 16, 32, 119, 120, 123, 275.
Trenchard, Sir John, Chief Justice of Chester; 166.
Trent, south; 64.
eyre, south of the; 166.
surveyor of forests north of; 166.
Trescaillan Manor; 327.
Trevannell, Mr.; 351.
Treverbin Courtenay, manor of; 350.
Trevis [or Farrer], Mary; 21, 26.
Trevor, Arthur; 72.
Sir John, Speaker of the House of Commons; 72, 166.
Sir John, Master of the Rolls; 95.
Mr., or Sir Thomas; 2, 18, 28, 35, 38, 44, 57, 101, 103, 111, 113–115, 124, 257, 348, 358.
—— Solicitor-General; 84, 102.
Triennial Parliaments Bill; 299–302, 305, 390.
Trimnel, Giles; 387.
Tripoli, consul at. *See* Lodington.
Troops, foreign; 184.
Tross, Henry; 31, 32.
—— his wife Wilmott; 31, 32.
—— —— their daughter Rebecca; 32.
—— his brother Nicholas; 31, 32.
Walter; 32.
v. Pearce; 31, 32.
Trosse *v.* Pearce; 258, 259.
Trufsel, Col. Edward; 171.
Truro; 293.
Trusts. *See* Superstitious Trusts.
Tuckfield, John; 192.
Tupper, Roger; 195.
Tupton. *See* Upton.
Turkey fleet; 237.
Turner, John; 38, 341.
Dame Joyce; 111, 112.
Richard; 348.
William; 84.
Turnor, Sir Edward; 325.
——, Ward and others *v.*; 288–290.
Turnour, Ann; 262.
Turton, Baron; 12, 90, 110, 255.
William; 125.
Turvill, Mr.; 290.
William; 256.
Tuthill, George; 151.
Twiford, Jacob; 250.
Tynmouth, Tynemouth; 190, 196, 217.
Tyrrel, Capt. John; 227.

U

Unsworth, Ferdinand; 81.
Upman, Stephen; 321.
Upnor; 188.
Castle; 189, 196.
Upton *alias* Tupton, lands called; 292, 293.

Upton, William; 341.
Urry, Capt. Thomas; 229.
Uses. *See* Superstitious Trusts and Uses.
Ushant; 213, 218, 219.
Uvedale, Thomas; 341.

V

Valery; 217.
Valler, Peter; 320.
Van Balin, or Van Baler, Conraate; 192.
Van Bockhoven, Joost; 192.
Van Cleft, John; 198.
Vandenberg, Peter; 192.
Vandeput, Sir Peter; 50.
Vandergoes, Rear-Admiral; 210, 211.
Vander Krick, Hermens; 192.
Vanderputten, C.; 214.
Vice-Admiral; 211.
Vanderstam, Leonard; 191, 193, 197.
Vanderstee, Abraham; 193.
Vander Veen, or Vandervein, Bernardus; 192.
Vander Vern, John Derrick; 193.
Vander Vert, or Vander Voert, Jon, or Ginbart; 193.
Van Doren, Gisbert; 198.
Van Erp, William; 197.
Van Erpe, Govert; 195.
Van Galmuyden, or Van Guilmyden, Peter; 192.
Van Guilmyden, Peter; 197.
Van Harwarden, Jacobus; 197.
Van Kooter, Ver or Peircy; 192.
Van Leeuwen, Jacob; 62.
Vanlever. *See* Van Lieuwen.
Van Lieuwen, or Vanlever, Roliff; 192.
Van Loverden, Cornelius; 198.
Van Lule, William; 38.
Van Room, John; 198.
Van Scanternell, or Schanternell, John; 191.
Van Sittart, Peter; 341.
Van Zutphen, Peter; 193.
Van Yperen, Peter; 193.
Vasseur Cayny, Lewis James de; 61, 62.
Congnes, or Coyny, Lovis Jacques le; 62.
Vaudois, the; 172.
Vaughan, Capt.; 219.
Colonel; 383.
Anne; 15.
Elizabeth; 15.
Griffith; 15.
Hugh; 15.
Jenkin; 15.
John; 15, 168.
—— of Place Gwynne; 49.
Margaret; 15.
Richard; 15.
William; 15.
Estate Act; 15.
Vaus, Vaux; 269.
Vauxhall; 27.
Ven, co. Sussex; 312.
Venne, Catherine; 260, 262.
Verbeck, Cornelius; 192.
Verelst, Simon; 21–23, 26.
—— and wife; 25.
Vernon, Mr.; 104, 274, 365.
Ed.; 341.
T.; 30, 83, 343.
Vernor, Mr.; 113, 114.
Vessey, William; 271.
Vickars, [Capt.] William; 234.
Victualling [the fleet]; 232.
Commissioners; 232.
Viland, Joseph; 193.
Villiers, Col.; 188.
Sir Edward, knight; 6.
Henry; 167.
Viscount; 10.
Edward, Viscount, and his sisters; 6.
Lord, Estate Act; 15, 267.
Vince, Manus de; 195.
Vincent, Shadrach; 171.
Vinegar. *See* Accounts Commissioners.
Violl, Mr. John, first lieutenant; 230.
Virginia chaplains; 171.
Vize, Andrew; 290, 291.
Voester, or Vooster, John; 192.
Volmer, John Paul; 192.
Vooster. *See* Voester.
Vosper; 383.
Vyner, Sir Robert; 116.

W

Wadsworth, Jane; 22, 25, 27.
Waite, John; 194.
Wake, William, gent.; 117.
—— Doctor in Divinity; 117.
Wake's Estate Act; 117.
Walcot, William; 378, 384.
Walcot's patent. *See* Sea-water.
Walcott, George; 341.
Wales; 6, 54, 65, 73, 117, 304, 307, 359, 360, 382, 386.
Prince of; 220.
poor vicarages in; 66.
North; 42.
South; 42.
Walford, Thomas; 190.
Walgrave, Sir Charles; 256.
Henry; 256.
Walker, Mr.; 104, 297.
Elizabeth; 297.
Capt. Hovenden; 228.
John; 25, 50, 82, 167, 244.
Wall, William; 191.
Waller, Mr.; 353.
Thomas; 254.
Wallinger, Mr.; 255.
Walter; 167.
Wallis, Henry; 291.
William; 291.
Wallop; 261.
Wallos, James; 219.
Walsh, William; 387.

Walters, Capt. Ben.; 227.
Walthall, Richard; 127, 128.
Estate Act; 127.
Waltham forests; 168.
Walton, Parry; 169.
War, Council of; 210, 211.
Ward, Capt.; 223.
Mr. Edw.; 16, 22, 30, 34–36, 79, 99, 102, 103, 107, 116, 119, 120, 124, 247, 251–253, 257, 258, 262, 273, 275, 276, 285, 286, 292, 303, 314, 316–318, 322, 326, 334, 340, 343, 346, 348, 352, 356, 367, 374.
George; 172.
Sir James; 290.
James, *v.* Turnor; 288–290.
John; 171.
Lord; 121, 298.
William; 387.
Wardour, William; 167.
Wardrobe, Great; 139, 163, 175, 294.
Wards and Liveries, Court of; 77.
Warfeild, John; 191.
Waringe, Adam; 111, 112.
Warminster; 121.
Warre, William, *v.* Praed, John; 285.
v. Minshull; 336.
Warren, Capt. Thomas; 227, 239.
Lieutenant; 234.
Warrington, Earl; 93, 185, 187, 247, 268, 296, 364.
Warter, Robert; 352, 353.
Warwick, George; 194.
Philip; 111.
Sir Philip; 111, 112.
Warwick Castle; 248.
county; 42, 252.
Wassenaer, Captain; 240.
Waterford; 199.
Waterhouse, Joshua; 379.
Rainsford; 274.
—— his executrix Elizabeth; 274.
Thomas; 275.
Waterman. *See* Watts.
Waterston Manor; 327.
Waterwork Act. *See* Shadwell.
Waterworks at York Buildings; 33.
Waterworth, John; 111, 112.
Watkins, N.; 191.
Watkinson, Lieut.; 169.
Watson, John; 192, 373.
Jonathan; 191.
Mary; 170.
Dr. Thomas, Bishop of St. David's, taking excessive fees by; 49.
Watts *alias* Waterman, Richard; 272, 273.
Weavers; 36.
petition, Norwich; 41.
Webb, Anthony; 80–82.
William, and Anne his wife; 111.
Webster, Goufrey; 286–288.
Weedon, C.; 57.
Caven; 123.
Cavendish; 260.
Weekes, John; 171.
Weekley, George; 357.
John; 357.
Weighing. *See* Butter and Cheese.
Welbeck, Richard; 166.
Welborne, Robert; 21, 22, 27.
Welby, George; 98, 99.
Jonathan; 99, 100.
Welch, Capt. James; 219.
Jonathan; 348.
—— deceased; 348.
Joseph; 348.
Capt. Robert; 219.
Welch, Judge. *See* Powys.
Weld, Humphrey; 374.
Welford, Thomas; 121.
Wellington, Henry; 383.
Wells, —; 367.
Welters. *See* Weltus.
Weltus, or Welters, Derick; 192.
Wem, Baron of. *See* Jeffreys.
Wentworth, Sir John, Estate Act; 274.
Lady; 33.
Wesencroft, Susannah; 171.
Westhorp, William; 355.
West Indies; 194, 198, 222, 314.
squadron; 215, 221, 222.
See Navigation.
Westminster; 7, 43, 48, 51, 61, 76, 81, 121, 122, 267, 307, 345, 362, 373, 382.
Dean of; 7, 8.
Dean and Chapter of; 169.
High Steward; 7, 8.
Act for good government of; 8.
Courts at; 10, 352.
Court of King's Bench at; 386.
Hall; 294, 295, 383.
—— Judges in; 295, 296.
—— shops in; 260, 262.
Palace at; 260.
collegiate school of St. Peter; 8.
St. Anne's, parish of; 8.
St. James', parish of; 8.
St. Margaret's; 169.
Town Court House; 8.
[Small Debts] Bill; 8–11.
Westmoreland, county; 7, 42, 274, 319, 320.
Westmoreland, Earl of; 51, 297.
Westons, or Kessings, Lambert; 192.
Westover, co. Southampton; 373.
Wethered, Thomas; 341.
Weymouth; 287.
Weymouth, Viscount; 121, 183, 280, 281, 286, 288.
Whalley, John; 341.
Wharton, Lord; 298, 249, 372.
Richard; 190.
Mrs.; 18.
Divorce Act; 18.
Wheatcroft, George; 26.
Susan; 26, 27.
Wheeler, Sir Francis; 222, 229.
Thomas; 194.
Whitehcot, Sir Jeremiah, Warden of the Fleet; 262-266.
White, —; 108.
Abel; 195.
Charles; 191.
Thomas; 191.

Whitechapel; 60.
Whitehall; 91, 190, 214, 287.
Council Chamber; 87.
keeper of the Paper Office at; 179.
Records in. *See* Williamson.
Whitehaven men; 230.
Whiteing, John; 189.
Whitelocke, Sir William; 28, 97–99, 101–103, 109, 115, 124, 250, 253, 259, 289, 316, 322, 346.
Whites; 338.
Whitfield, Edmund; 321.
Whitley, Mag.; 170.
Whittaker, Nicholas; 189, 190.
Whittear, Thomas; 121.
Whittingham, John; 246, 247.
Whittfeild, Walter; 325.
Whitton, Mrs. Mary; 143, 165, 175.
Wichampton, co. Dorset; 54.
Wicket, William; 168.
or Winter, William; 64.
Wickins, Thomas; 61, 62.
Wigfall, Daniel; 341.
Wight, Isle of; 209, 214, 216, 217.
Wilcox, Edward; 61.
Wildman, Abraham; 50.
John; 256.
Wilke, William; 194.
Wilkins, Captain; 219, 244.
Wilkinson, C.; 28.
James; 28.
Willemstad; 223.
William, King; 65, 127, 196, 305.
and Queen Mary; 379.
Williams, Mr.; 351.
Duke; 50.
Sir John, Estate Act; 327.
William, of the Battle; 49.
Williams, Sir William; 11, 18, 21–23, 35, 85, 93, 94, 96, 97, 103, 111, 112, 116, 119, 247, 251, 262, 275, 279, 282, 291, 309, 314, 326, 328, 338–340, 356, 364, 367.
Williamson, Henry; 195.
Sir Joseph; 198.
Sir Joseph, Keeper of the Records in Whitehall; 168.
Robert; 189.
Williamstadt; 200.
Willisell, John; 246, 247.
Willoughby, Elizabeth; 172.
William; 190.
de Eresby, Lord; 83, 262, 295, 296.
of Parham, Lord; 83, 171.
Wills, Charles; 272.
Wilmer; 187.
Wilshaw, Thomas; 205.
Thomas, Commissioner of the Navy; 213, 239.
Wilson, George, junior, of Kendal; 6, 7.
John; 289.
Wilts, county; 42, 256, 257, 328.
bailiffs of the sheriff of; 272.
Win. *See* Wynn.
Winchester, Lord; 87.
Dean and Chapter of; 142.
Winder, Edmund; 82.
Thomas; 82.
Windham, Mr.; 187.
Windsor, Thomas, Lord; 387, 389.
Windsor; 188.
Castle; 167, 189, 190.
Forest, bailiff of Battles Walk in; 167.
Wine. *See* Accounts Commissioners.
Wing, William; 249.
Winn, Capt.; 206.
Mark; 341.
Winnington, Sir Francis; 16, 35, 57, 249, 262, 291, 316, 387.
Salwa; 387.
Winskell, John; 194.
Winter, Robert; 357.
See Wicket.
Wintour, —; 271.
Wirtemberg, Duke of; 188.
Wise, Edward; 190.
Wiseman, Capt. Robert; 229.
Wishart, Capt. James; 229.
Withe, Thomas; 258.
v. Lewis; 258.
Wivell, Wyvell, Capt. Fra.; 227.
Wolrich, Collins; 86.
Sam.; 189.
Wolseley, Robert; 171.
Col. William; 166.
—— his regiment; 188.
Wolverton, co. Stafford; 291.
Wood, Sir Cæsar, *alias* Cranmer, *v.* Charles, Duke of Southampton; 112–114.
Sir Henry; 112–114.
—— his daughter Mary; 112–114.
John; 25, 81, 341.
Ralph; 191.
Robert; 86.
Thomas; 275.
Doctor Thomas, Bishop of Coventry and Lichfield; 112, 114.
William; 194.
Capt. William; 194.
Wood Street Compter; 373.
Woodalling, co. Norfolk; 40.
Woodberry Hall, co. Cambridge; 346.
Woodbridge; 108, 109, 355, 356.
Woodfeild, William; 291.
Woodford, William; 37.
Woodlands, manor of; 284.
Woods, Surveyor of H.M. *See* Ryley.
Woodstock; 122.
Woodward, Susan; 170.
Wool mixed with silk, or hair; 36.
See Accounts Commissioners.
Woollaston, Isaac; 282.
Richard; 282.
Estate Act; 281.
Woollen manufactures; 33.
subsidy and aulnage upon; 42, 43.
See Aluage Bill.
Woollers; 384.
Woolwich; 189, 196.
Wootton Bassett, co. Wilts.; 256.
Worcester, Bishop of; 365.
Worcester, cloths of; 43.
Worcestershire; 42, 122, 387, 389.
Worden; 272.
Works, officers of; 167.
See Accounts Commissioners.

Worplesdon ; 320.
Worrell, Samuel ; 81.
Worsted manufactures ; 41.
Wraxall ; 331, 332.
Wray, Captain Christopher ; 72.
Sir Drury ; 72.
Wrecks. *See* Accounts Commissioners.
Wren, Sir Christopher ; 167.
Wright, Edward, and wife ; 26.
George ; 189.
Capt. William ; 227, 234.
Wrotchley, Sir Walter ; 387.
Wych, Sir Cyril ; 50, 51.
Wycherley, Daniel ; 84–86.
and others *v.* the Mayor, &c., of Shrewsbury ; 84–86.
Wylbore, John ; 122.
Wyndham, Francis ; 252.
Wynn, Win, Owen ; 308, 311.
Richard, of the Inner Temple ; 81.
Capt. Robert ; 229.
Wynne, Cadwalader ; 288.
Wynne's regiment, Col. ; 188.
Wyrley, George ; 253.
Wys, or Wyse, Hermans de ; 192.
Wyvell. *See* Wivell.

Y

Yards, Richard ; 170.
Yarmouth, Earl of ; 298.
Yarmouth, bailiffs of ; 159.
Roads ; 217.
Yate, Elizabeth ; 356.
Jonathan ; 356.
Samuel, the elder ; 356, 357.
—— the younger ; 356.
Thomas ; 356.
Dr. Thomas, principal of Brazenose College ; 356.
Yates, —— ; 390.
Yatton ; 250.
Yendacott, the Barton of ; 31.
Yerbury, Thomas ; 121.
Yewell, Christopher ; 82.
Yonge, Chich. ; 293.
York ; 375.
Archbishop of ; 4.
Assizes ; 82.
Castle ; 82.
Clifford's Tower ; 190.
York, county Yorkshire ; 7, 42, 274, 334.
York Buildings ; 33.
Young, Anthony de ; 194.
Baxter ; 7.
Richard ; 341.

Z

Zante ; 285.
Zeagard, Andrew ; 194.
Zeagart, Christian ; 194.
Zouch *v.* Naylor ; 13.
Zulestein, Mons. ; 188.

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